

9th January 1954]

(2) MESSAGE FROM THE GOVERNOR.

"I have also to announce to the House that I have received the following message, dated the 31st December 1953, from the Governor of Madras:—

'In pursuance of Article 207 (1) of the Constitution of India, I, Sri Prakasa, Governor of Madras, hereby give my recommendation to the introduction in the Madras Legislative Assembly of the Madras Muslim Wakfs Bill, 1953.'

III.—NON-OFFICIAL BUSINESS.

INFORMATION *re* ORDER OF PRECEDENCE AMONG BALLOTTED ITEMS.

SRI G. GOVINDAN :—"கனம் சபாநாயகர் அவர்களே, தனி நபர் மசோதாக்கள் 1954-ம் ஆண்டு ஜனவரி மீ 4உ அன்று சட்டசபை உதவிக் காரிய தரிசி அவர்களுடைய காரியாலயத்தில் வேண்டு எடுக்கப்பட்டன. அப்பொழுது சென்னை ராஜ்ய (ஆட்சி மொழி) மசோதாவானது முதல் ஸ்தானம் பெற்றது. ஆனால், இன்றைக்கு கிடைத்திருக்கும் நிகழ்ச்சி நிரலில் (agenda), கனம் அங்கத்தினர் ஸ்ரீ வி. கோபால கவுண்டர் அவர்கள் கொடுத்த சென்னை மது விலக்கு (திருத்த) மசோதாவானது முதல் ஸ்தானம் பெற்றிருக்கிறது. இதற்குக் காரணமென்னவென்று தெரிவிப்பீர்களா?"

SRI S. SWAYAMPRAKASAM :—"Mr. Speaker, Sir, the hon. Member says that in the ballot held in the Assistant Secretary's room, the Bill given notice of by him got the first place but now in the Agenda, hon. Member Sri V. Gopala Gounder's Bill has been given the first place. He wants to know the reason for it."

MR. SPEAKER :—"The hon. Member should meet me in my Chamber. I cannot give a reply off-hand. I must go through the files."

SRI D. KRISHNAMURTHY GOUNDER :—"இந்த சட்டசபைக் கூட்டம் இன்னும் எத்தனை நாட்கள் இருக்கும் என்பதைத் தெரிவிக்கும்படி கேட்டுக்கொள்ளுகிறேன்."

MR. SPEAKER :—"நீங்கள் இந்தக் கேள்வியை Leader of the House வந்த பிறகு தயவுசெய்து கேளுங்கள்."

SRI S. DEIVASIGAMANY :—"Sir, on a point of order, may I know whether you are going to allot a day for non-official business during this session?"

MR. SPEAKER :—"It is not for me to answer this question. As soon as the Hon. the Leader of the House comes, he will reply."

IV.—GOVERNMENT BILL.

THE MALABAR TENANCY (AMENDMENT) BILL, 1953—cont.

MR. SPEAKER :—"We are now in the Malabar Tenancy (Amendment) Bill, 1953. We have passed clauses 4, 4-A, 5 and 6. We are now in clause 7."

Clause 7.

SRI T. C. NARAYANAN NAMBIAR :—"Mr. Speaker, Sir, I move the amendment standing in my name, namely:—

'That in item (i), line 6, for the words "a protected ulkudi or" substitute the words "an ulkudi or",'

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SRI P. K. GOPALAKRISHNAN :—" Sir, I second it."

MR. SPEAKER :—" Amendment moved—

' That in item (i), line 6, for the words " a protected ulkudi or " substitute the words " an ulkudi or ".' "

* SRI M. NARAYANA KURUP :—" Mr. Speaker, Sir, you have reserved the clause relating to ' Definitions ' to the end. The definitions relating to this clause may also be considered now so that both may be disposed of. We are now considering the rent of the ulkudi, kudikidappu and the protected ulkudi but the definitions themselves have not yet been taken up."

* THE HON. SRI C. RAJAGOPALACHARI :—" Mr. Speaker, Sir, when definitions are taken up, the hon. Member wants that to be postponed. When the clauses are taken he wants them also to be postponed. We must get on one way or the other. It would be best to take the definitions first, I quite agree. But the definitions carry no meaning unless the clauses are passed. We may therefore take that whatever we do now is subject to revision of the definitions."

MR. SPEAKER :—" Hon. Member, Sri P. K. Gopalakrishnan, has also given notice of an amendment, No. 58, which defines what an ' Ulkudi ' is. All these things can be taken up in the end when we come to definitions."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sir, nothing is lost. Let it be clearly understood that when we take up the definitions, if any consequential changes become necessary, we will also take them up."

10-20
a.m.

* SRI M. NARAYANA KURUP :—" If the definition is accepted, there may not be any controversy at all whether there should be ulkudi, protected ulkudi and kudikidappu or whether there should be only ulkudi. It is not my idea at all that we should postpone taking a decision on this matter. Inasmuch as one is dependent on the other, both these may be considered and any disposal of this question will automatically cover the other."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" We began with the definition and then, as the hon. Member Sri M. Narayana Kurup objected to it we passed on to clause 7. Under clause 17 which we have already passed the word ' protected ulkudi ' has been approved."

* SRI T. C. NARAYANAN NAMBIAR :—" Mr. Speaker, Sir, as hon. Member, Sri P. K. Gopalakrishnan, has given a similar amendment to clause 2 and as it is going to come up for discussion before the House, I am not pressing the following amendment standing in my name—

' In item (i), line 6, for the words " a protected ulkudi or ", substitute the words " an ulkudi or ".' "

The amendment was by leave of the House withdrawn.

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* SRI M. NARAYANA KURUP :—“ The question before the House is whether there should be these differences in respect of ‘ulkudi’. In the Bill, ‘ulkudi’ has been defined as a hut in any portion of a land outside Fort Cochin in the occupation of a person who has been permitted by the person entitled to possession of such land to occupy the hut and who otherwise has no interest in such land. Protected ulkudi has been defined as an ulkudi which has been in the continuous occupation of a holder for not less than one year. Protected ulkudis and ulkudis in Fort Cochin are described as ‘kudikidappu’. We are all aware of the history of these names. Originally these names meant only ‘ulkudis’. Then the Government wanted to treat Fort Cochin area separately and gave the name ‘kudikidappu’ to ulkudis in that area. I submit these words are a distinction without difference. An ulkudi which has been in continuous occupation for not less than a year is called ‘protected ulkudi’ and there is no need for making this distinction between ulkudis and protected ulkudis in view of the fact that it would be very difficult to prove the period of occupation. I submit that all the rights attached to ‘protected ulkudis’ must be conferred on all ulkudis and therefore I oppose the classification of ulkudis into ulkudis and protected ulkudis and kudikidappus.”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ I submitted in my speech introducing the Bill that this classification of ulkudis is absolutely necessary. Kudikidappu in Fort Cochin has got a peculiarity, namely, that rent is paid. In the rest of Malabar where ulkudi holders live, rent is not paid. That is why we have split it up into ulkudis and kudikidappus. We are also giving fixity to holders of ulkudis who have been in continuous occupation for one year and they are called ‘protected ulkudis’. Therefore, this classification of ulkudis is absolutely necessary and I request that the clause as it stands may be passed.”

SRI M. NARAYANA KURUP :—“ I wish to know whether the distinction is based on payment of rent or non-payment of rent or on the difference in areas in which they are situated.”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ The classification is made because the incidence of the holding differs and because custom also differs. Both are totally different kinds of licences or permission.”

Clause 7 was put and carried.

Clause 8.

SRI V. R. KRISHNA AYYAR :—“ I beg to move—

‘ That in the proposed section 9-BB, after the words “ a holding ” occurring in line 3, insert the words “ is lost for purposes of agriculture on account of reasons beyond the control of the tenant ” and after the words “ extent of the land ”, insert the words “ so lost or ”.’

[Sri V. R. Krishna Ayyar] [9th January 1954]

“The proposed clause 9-BB reads thus—

‘Exclusion of certain lands from liability to fair rent.—Notwithstanding anything contained in sections 5 to 9-B, where any land included in a holding is set apart for communal purposes, and is used as such, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with those sections.’

To make this clause all-comprehensive, I suggest that the words suggested in my amendment may be added to the clause. It is proper, Sir, that a tenant should be given some benefit when land is lost for purposes of agriculture on account of reasons beyond his control such as actions of Nature. Though the amendment suggested is not a material change, still it will provide for certain situations of hardship. I do not think there can be any grounds for objecting to this amendment.”

The amendment was duly seconded.

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Mr. Speaker, Sir, I beg to move the following amendment :—

‘That in the proposed section 9-BB, for the words “ as such ” occurring in line 4, substitute the words “ for such purposes ”.’

It is only a verbal amendment or a schoolmaster’s amendment, if I may say so. In clause 9-BB, it has been stated, ‘ . . . where any land included in a holding is set apart for communal purposes, and is used as such . . . ’ The word ‘ such ’ used here is a pronoun which should stand for some noun going before it . . . ”

SRI C. RAJAM RAMASAMI :—“ I second the amendment.”

THE HON. SRI C. RAJAGOPALACHARI :—“ The amendment suggested by the hon. Member is quite correct and the Government will accept it. Instead of the words ‘ as such ’ we should have ‘ for such purposes ’.”

10-30 a.m. * THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, the hon. Member, Sri V. R. Krishna Ayyar’s amendment is out of place. There is a section in the Malabar Tenancy Act which contemplates such cases. What we do under clause (a) is only to examine whether communal lands set apart for communal purposes come under the purview of fixation of fair rent. So, I have to oppose the amendment.”

SRI V. R. KRISHNA AYYAR :—“ So far as I can gather, there is no section in the Malabar Tenancy Act. If the Hon. Minister says there is, I would like to know from him what is that section.”

* THE HON. SRI C. RAJAGOPALACHARI :—“ The hon. Member will forgive me for explaining to him that according to the general law if the tenant has lost lands, he has a right to say ‘ I do not pay ’. If it is a question of raising a dispute every time about the actual extent—one cent more or one cent less—it would lead to more litigation. If the land is entirely lost, it will be hardly necessary to fix the proper rent.”

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SRI V. R. KRISHNA AYYAR :—“ When there is a special law as against the general law, it may be that the courts accept a reduction in rent or abatement only if there is specific provision. It is only to clear up a possible apprehension and dispute, I have brought forward my amendment. There is no harm in accepting the amendment. It is only by way of abundant caution I have moved my amendment.”

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ The amendment is not necessary. There is already provision in the Malabar Tenancy Act.”

MR. SPEAKER :—“ The question is—

‘ In the proposed section 9-BB, *after* the words “ a holding ” occurring in line 3, *insert* the words “ is lost for purposes of agriculture on account of reasons beyond the control of the tenant ” and *after* the words “ extent of the land ”, *insert* the words “ so lost or ”.’ ”

The amendment was put and lost.

MR. SPEAKER :—“ Are the Government accepting the amendment of the hon. Member Sri P. S. Krishnaswami Ayyangar? ”

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Yes, Sir.”

MR. SPEAKER :—“ The question is—

‘ In the proposed section 9-BB, *for* the words “ as such ” occurring in line 4, *substitute* the words “ for such purposes ”.’ ”

The amendment was put and carried.

Clause 8, as amended, was put and carried.

Clause 9.

SRI S. S. KOLKEBAIL :—“ Sir, I move the amendment standing in my name, namely—

- (i) ‘ In sub-section (1) of the proposed section 9-C, for the word “ Tahsildar ”, substitute the words “ Revenue Divisional Officer ”.’
- (ii) ‘ In sub-section (2) of the proposed section 9-C, for the words “ shall have the power to depute any officer of the Revenue Department ”, substitute the words “ shall have the power, or to depute any officer of the Revenue Department ”.’
- (iii) ‘ In sub-section (2) of the proposed section 9-C, after the words “ any officer ” occurring in line 7, insert the words and brackets “ (not below the rank of a Tahsildar or Deputy Tahsildar) ”.’
- (iv) ‘ In sub-section (2) of the proposed section 9-C, after the words “ to make local enquiry and inspection and to collect data ”, insert the words “ after due notice to the parties ”.’

[Sri S. S. Kolkebail] [9th January 1954]

(v) 'Add at the end of sub-section (2) of the proposed section 9-C, the words and brackets " (after giving the parties the right to cross-examine the officer who held the local enquiry) ".'

(vi) 'Other consequential amendments be made to this clause'.

"I am moving these amendments because we are ousting the jurisdiction of the Civil Courts. The Rent Courts must be presided over by the Revenue Divisional Officer and decisions must be taken by them. Because there will be lot of complications and lot of troubles in the administration of this Act between the landlord and the tenant, it is better that an officer of the status of the Revenue Divisional Officer is entrusted with these powers.

"The Government have given powers under this clause to the presiding officer to depute any officer of the Revenue Department to make local enquiry and inspection. The local inspection must be held by the presiding officer, and he should not delegate his power of inspection to anybody else. If the Government want that power to be delegated to a subordinate officer, then that power should also vest in the officer presiding, because there will be lot of troubles otherwise. Further I find in the main clause that the report that will be submitted by the officer concerned, after holding the necessary local inspection, will be treated as evidence. My submission is that evidence which is not subject to cross-examination cannot be accepted, because such a thing is in direct contravention of the Evidence Act itself. The party must be given the necessary opportunities to cross-examine the evidence, just to see on what grounds it is based. I find also no provision in the section for issue of notice to the parties before holding the necessary local enquiry. These are all things not conducive to a proper enquiry of the case. So, I submit that all these amendments are very ordinary ones, and there is no harm in accepting them. So, I commend them to the acceptance of the House."

The amendment was duly seconded.

* SRI P. S. KRISHNASWAMY AYYANGAR :—"Sir, I move the amendment standing in my name, namely,—

'In sub-section (2) to section 9-C after the words "any officer of the Revenue Department", insert the words "subordinate to the officer functioning as Rent Court".'

Sir, the reason for this amendment is this. The Revenue Court may depute an officer of the Revenue Department to make a local inspection. It does not impose any restriction on the choice of the revenue officer that it has to make. A Tahsildar who functions as a Revenue Court—an eccentric Tahsildar—may take it into his head to ask a Collector of his own district to attend to this business of local inspection. This will look absurd. Therefore, the Revenue Court, wherein the Tahsildar functions, should assign this work only to an officer subordinate to him. Otherwise such oddities may occur. To prevent such things, I move this amendment."

The amendment was duly seconded.

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SRI T. C. NARAYANAN NAMBIAR :—“ I shall move my amendment to Section 9-C and also my amendment to Section 9-E. I think both can be moved.”

MR. SPEAKER :—“ Amendment to section 9-E relates to Clause 10.”

SRI T. C. NARAYANAN NAMBIAR :—“ But the amendment is to Section 9-E of the principal Act.”

MR. SPEAKER :—“ When we come to Clause 10, the amendment to Section 9-E can be moved.”

* SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I move the amendment standing in my name, namely,—

‘ For the proposed section 9-C, substitute the following :—

“ 9-C. (1) *The fair rent payable under sections 5 to 7 and 9 to 9-B, the instalments, if any, in which it shall be payable, and the date or dates, on or before which such fair rent or the instalments thereof shall be payable, shall be determined by the Rent Settlement Authority in such manner as may be prescribed.*

(2) *The Rent Settlement Authority shall be the village Panchayat Board wherever there is one and in places where there is not one, a representative of the Government and the representative of the Jenmi Sabha, the Kisan Sabha and Kisan Panchayat and the Kisan Congress which are accorded recognition by the Collector will constitute the rent settlement authority.”*

“ The *modus operandi* for fixation of fair rent according to the amendment of Government is the Rent Court. It is a known fact that Revenue Officers would be there and the Revenue Divisional Officer would preside. As has been pointed out by some Members, usually it happens in Malabar that the Tahsildar's office is situated far away and the revenue officials are not fully conversant with the conditions obtaining in the local areas. On the other hand, the elected representatives of the people, the Panchayats elected by the villagers are more conversant with the local conditions. Therefore, it would be advisable that panchayats or a tripartite organization as suggested in my amendments should constitute the machinery for fixation of fair rent rather than the Rent Court as is now sought to be provided in the Bill.”

10-40
a.m.

* SRI P. K. GOPALAKRISHNAN :—“ While seconding the amendment just moved, I shall cite an example from my own experience. The offices of the Tahsildar and the Revenue Divisional Officer are far away from certain villages. For instance, the distance from my village to the office of the Tahsildar is 60 miles. When such is the case, can we expect Revenue officials working 60 miles away to be fully alive to the needs of our villages? Can we say with confidence that all the difficulties of agriculturists are known to them? No, the answer is surely in the negative. On the other hand, who are the people who are most conversant

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with local conditions? It is the Village Panchayatdars. It is the local elected representatives of the people. That is why I say instead of putting the Revenue officials in charge of the Rent Court, it would be advisable to constitute a machinery consisting of the Panchayatdars, and some members of the Janmi and Kisan Sabhas (where there is no Panchayat Board) for the fixation of fair rent. Otherwise, I am afraid that justice will not be done to the poor cultivators. The Revenue Divisional Officer invariably is not at all fully conversant with local conditions. He does not know the local conditions prevalent in each taluk. That is why I say it would be better to have the Panchayatdars to be in charge of fixation of fair rent."

* SRI C. H. KANARAN :—" Even though Government appoint so many persons to be in charge of Revenue administration of the State, I am sure the question of fixation of fair rent could not be easily solved within five or six years. It is a complicated question. Government cannot think that the Tahsildar or the Revenue Divisional Officer is the competent person to decide the question of fair rent. It is not so. The Tahsildar's office is far away from many of the villages. The Tahsildar is not aware of the local conditions in many of the taluks under his jurisdiction. The case is all the stronger in the case of the Revenue Divisional Officer who is above the Tahsildars. Then the question may be asked who are the persons who are fully conversant with local conditions? I say it is the Panchayat Boards and the local representatives of the people of those areas, viz., the M.L.A's. Some may say that the village karnams are fully alive to the needs of the villages. But I know how these village karnams have become corrupt. I know how they will behave if they are asked to share out the produce between the tenant and the landlord. They will try to propitiate their stomachs first. That is why I say it would be by far better to entrust this work of rent fixation to a corporate body like the Panchayat Board. I know that even now Panchayat Boards try so many minor cases and they have conducted themselves creditably. That is why I support the idea of a corporate body like the Panchayat Board being entrusted with the work of fair rent fixation rather than the Tahsildar or the Revenue Divisional Officer. Let not the Government think that anything would go wrong by entrusting the Panchayat Boards with the work of fixation of fair rent."

SRI V. R. KRISHNA AYYAR :—" In the midst of the variety of suggestions just offered, may I champion, as I had so often done before, the cause of the Civil Court. On more than one occasion, I had expressed the view that the Revenue officials are not sufficiently conversant with the law pertaining to the fixation of rent. My experience has been bitter in this line. Revenue officials are not fully conversant with local conditions and with the laws governing rent settlement, fixation of fair rent and the like. Therefore, I would suggest that it would be by far better to have civil courts rather than rent courts. Incidentally, the difficulty pointed out by my friend Mr. Gopalakrishnan, viz., that the

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villagers are far away from the office of the Tahsildar or the Revenue Divisional Officer and as such, these authorities are not fully alive to the needs of the agriculturists, may be overcome if we have the civil courts as the authority in charge of rent fixation. Civil courts are much nearer. Revenue officials have got to be going on to various places for umpteen jobs and they cannot be expected to possess full facts regarding the legal issues involved in the matter of rent fixation. It is better inasmuch as his work itself is voluminous in the other sphere, to keep the Revenue Divisional Officer aloof. These Revenue officials have got to cover 50 to 60 miles to reach villages to ascertain the local conditions. When such is the case and when even their normal work takes their breath away, I see no reason why this additional burden of fixation of fair rent is also imposed on the Revenue Divisional Officer. A suggestion had been made that inasmuch as the Panchayats are fully alive to the needs of the respective locality in which they are situated, it would be far more feasible to constitute them and the local representatives of the people into a machinery in charge of fixation of fair rent. I am in agreement with that suggestion."

* SRI N. GOPALA MENON :—" Mr. Speaker, it will be very unwise to entrust this question of fixation of fair rent to local officials, for they are, for one reason or other, intimately connected or associated with the tenants or owners in the village and as such, they cannot be expected to be impartial in their outlook. If a dispute in a village between a landlord and a tenant regarding the sharing of the produce is referred to the Panchayat Board, it invariably happens that one of the members is interested in one party or the other in the dispute. So, we cannot expect an impartial verdict. That is my view. Therefore it is very essential if you want to instil confidence in the tenants as well as in the landlords that justice will be meted out to them both, and for that the deciding authority should be away from the village and unconnected with it so that the disputes may be decided in an impartial manner. I also very strongly deprecate public bodies like the Kisan or Jenmi sabhas taking active part in the dispensation of justice to the people in their own areas. The actual execution of work should be entrusted to officers who are conversant with that type of work. I know that in Malabar there is some little difficulty because of distances. My friend Mr. Gopalakrishnan has complained that the office of the Tahsildar and the Revenue Divisional Officer being situated far away from villages, the parties will have to travel long distances; I concede that the distance between Nattika and Ponnani is about 40 miles and not 60 as the hon. Member had observed. Of course, it is desirable that the Tahsildar or the Revenue Divisional Officer concerned camps from place to place if there are a sufficient number of cases to be disposed of, so that poor villagers may not be put to undue hardship. It is also a fact that it is not at all completely quasi-judicial work that these officers have to do. For instance, in England, we do not have any Rent Courts but we have officers known as 'Arbitrators'. They decide the question of eviction, fixation of fair rent, etc. Of course, these may incidentally raise some big questions where big legal

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issues are involved. These may be referred to the higher judicial authorities, or the parties themselves may have recourse to the same. I think that even the people of Malabar will not mind the civil courts being entrusted with this work. I do not think that such a procedure would cause too much litigation. But the difficulty is that the number of cases are on the increase to-day. I think it would be by far better for the expeditious disposal of cases to entrust the work to an arbitrator it may be the Tahsildar rather than the civil court. I think that Government could alleviate the difficulties of tenants and landlords having to go long distances for the settlement of their disputes to the Tahsildars' offices, by directing the Tahsildars to periodically go to these places where there is accumulation of work. In these circumstances, I oppose the amendment just now moved by the Opposition."

10-50
a.m.

* SRI M. NARAYANA KURUP :—" I would not have spoken on this amendment but for its close inter-connection with section 9-C. When I try to bring to the notice of this House that certain clauses are connected and may be considered together, nobody need suspect my motive. It is not dilatory tactics. It is done with the best of intentions so that the whole thing may be accepted and we may not be asked to take up positions inconsistent with the ones previously taken up. I hope such a contingency will not arise. The practical result of this amendment is to annul the existing provision regarding the Rent Settlement Authority which confers a valuable right with regard to compulsory fixation of fair rent. The Hon. Law Minister was pleased to describe this as a scientific arrangement, but he said that it was not practicable. Sir, when a thing is scientific, it is given the go-by because it is impracticable and when a thing is practicable it is ignored because it is unscientific. I would not have raised this unless I sincerely believe that, in the absence of security to all tenants, compulsory fixation of fair rent is essential to give them even the smallest benefit. Of course, I realize that they have tabled amendments giving fixity of tenure to tenants who have been in occupation for six years, but it will not give real relief to the rack-rented peasantry who are likely to be excluded from that category. Therefore, any provision for fixation or determination of fair rent will be incomplete unless there is a machinery provided for it and the State undertakes to fix the responsibility. It was pointed out by the Hon. the Law Minister that it will involve a huge cost of about Rs. 70 lakhs. It is a question concerning many lakhs of people. An expenditure of Rs. 70 lakhs is nothing. The Government are not a trading concern run for profit. Where money has to be expended for the benefit of large sections of people, it has to be expended. I would not have raised this if the Government had gracefully consented to give fixity of tenure to the cultivating tenant so that he may go to the court with the conviction that he will not be driven out of his property and he can approach the authority to get the fixation of fair rent. Special emphasis was laid by the Officer who went into this question. It was not as though the rent was fair in Malabar that though twenty years had elapsed since the provisions had been made, no complaint has been

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made. It was not because the rent was not rack-rent but it was due to the fear of the tenant that the landlord might use the weapon of eviction to drive him away. Therefore, in the absence of fixity of tenure to the tenant, I have to oppose this clause which has the effect of annulling the machinery provided for compulsory fixation of rent."

SRI P. K. GOPALAKRISHNAN :—" On a point of information, Sir. The distance from my village to Ponnani is sixty miles by bus route *via* Chowghat, not less and not more."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sir, I wish to clear the position. The hon. Member can explain the whole thing after me. Mr. Krishna Ayyar's suggestion is that the power should be given to civil courts and Mr. Narayanan Nambiar's suggestion is that the Rent Settlement Authority should be kept up and all the lands in the district should be settled, so to say, notwithstanding any question of cost. Apart from that, I admire the courage of hon. Members of the opposite block who suggest that the fixation of rent should be handed over to local political bodies of a kind whose operations are such that practically the entire fate of the areas would be handed over to these political bodies if their suggestion is to be accepted. We must also have a large police in these places to maintain order with regard to the disputes that will arise. Here is a question where an assessment has to be made from a judicial point of view after taking the data into account. It is impossible to entrust it to elective bodies such as are proposed."

SRI V. R. KRISHNA AYYAR :—" I should like to point out to the Hon. Speaker that I have given notice of an amendment in regard to the definition of the expression 'Rent Court' [Amendment No. 31 (ii)]."

MR. SPEAKER :—" We will take it up when we come to definitions."

* SRI T. C. NARAYANAN NAMBIAR :—" The Hon. the Chief Minister was, of course, appreciating the courage that I had in moving the amendment. I take it as a compliment. As representatives of the public, we have got the courage to say that we have got more faith and confidence in the elected representatives. If the representatives of the Congress political party can rule this State, I ask, why should not the elected representatives be entrusted with this task of fixing a fair rent with regard to fields and gardens in a village?"

THE HON. SRI C. RAJAGOPALACHARI :—" There is no point in shouting. Do you presume to give judgment in these cases?"

* SRI T. C. NARAYANAN NAMBIAR :—" I am not in favour of continuing the old Rent Settlement Authority. Of course, the form will be there with different content. I am putting forward a more democratic content in it. I want that Panchayat Board,

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composed as it is of elected representatives of the people, should determine the fair rent. But where there is no Panchayat Board, a representative of the tenants, a representative of the landlords and also a representative of the Government, who can be a Judicial Officer, can constitute the Rent Settlement Authority. That is the reason why I have moved this amendment."

THE HON. SRI C. RAJAGOPALACHARI :—" The function of these bodies should be to reconcile and give conciliatory suggestions and not to decide."

*** SRI C. H. KANARAN** :—" Panchayat Boards are now dealing with so many cases and police force has not been employed till now. Apart from this, we have suggested that there should be a representative of the Government in addition to representatives of the Janmi Sabha, the Kisan Sabha, the Kisan Panchayat and the Kisan Congress. The Government representative is not excluded here."

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR** :—" Sir, the whole mistake lies in not realizing that this machinery is to assess fair rent. It requires a knowledge of the quality of the soil, the yield, conditions prevailing in the places and other things. Panchayat Boards are already looking after sanitary arrangements, road-laying and they have also other functions. We will be burdening them with this additional responsibility and they would not be able to carry on. That is why, Sir, we have proposed that a Revenue Divisional Officer or a Tahsildar shall fix the fair rent. The provision for Rent Settlement Authority contained in the principal Act has been scrapped as it would not give benefit to either party for a long time. There are about ten lakhs of holdings in Malabar and if the fair rent in respect of these holdings is to be fixed and the Record of Rights is to be prepared, it will take six years. Besides, the staff required for this work, is one Collector, 12 Deputy Collectors, 47 Tahsildars, 63 Upper Division Clerks, 173 Lower Division Clerks, 48 Typists, 146 Revenue Inspectors and about 800 other subordinate staff. We were not able to provide sufficient staff and without the machinery and without the equipment, it is not possible to work out that scheme. That is why it was scrapped and the people also agitated for its abolition."

SRI M. NARAYANA KURUP :—" Are this Government incapable of providing such a machinery? "

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR** :—" That is why we had to give it up. What is required is quick disposal of disputes between the landlord and the tenant. That is the reason why we have come forward to revise the machinery itself. We have been very careful to revise the rates and we have been very careful to give them further facilities. The original Bill constituted only the Revenue Divisional Officer as the Rent Court. The amendment that the Tahsildar also may function as a Rent Court was taken into consideration to enable the tenants to get at closer quarters with the Rent Courts concerned. Regarding the suggestion of Sri V. R. Krishna Ayyar, it is out of question because if in

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each case the tenant is asked to pay a commission batta of Rs. 50 or Rs. 100, that will be denying the relief what we are giving to him and he will be at the mercy of the money-lenders. The tenants have been agitating that it would not be possible for them to agitate their claims against rich landlords in civil courts.

“As regards the amendment relating to instalments, we have fixed the fair rent. We have also fixed the maximum up to which it can be increased, and provided the facility of spreading over the increase over a number of years. So that amendment also is not necessary.

“As regards Mr. Krishnaswami Ayyangar's amendment for adding the words “subordinate to the officer functioning as Rent Court” after the words “any Officer of the Revenue Department”, the Officer can order his subordinates to make local enquiry and inspection even without this amendment. So the amendment is not necessary.

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“As regards the amendment proposing that the application should be to the Rent Court ‘having jurisdiction over the area in which the particular land is situated’, the application can only be to the Court which has jurisdiction over the area. Therefore that amendment also is not necessary.

“Sri Kolkebail's amendment is not necessary. The Select Committee thought that the inclusion of Tahsildar for the purpose of performing the functions entrusted to a Rent Court was absolutely necessary in the interests of the tenant. If we accept the amendment, the tenant will be deprived of a concession which the Select Committee has given.

“Regarding the proposed section 9-C (2), it gives power to the Rent Court to depute any officer of the Revenue Department to make local enquiry and inspection. In all Courts, the Judges have got the power of local enquiry and inspection as every lawyer knows.

“I think I have covered all the main points. I am unable to accept the amendments, and I request the hon. Members to withdraw them.”

SRI V. R. KRISHNA AYYAR :—“Even assuming that the Government over-rule all the other amendments, I submit that Sri Kolkebail's amendment about giving of notice to the parties concerned is a reasonable one and may be accepted. If the Revenue Inspector collects the data and submits a report, the Tahsildar or Revenue Divisional Officer will simply okay that report. So it is absolutely necessary to give notice to the parties and hear them if they have got to make any representation.”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“Sub-section (2) says that the Rent Court shall follow the same procedure as is followed by a Court of Small Causes and the procedure to be followed by a Court of Small Causes is laid down in the Provincial Small Causes Court Act, 1887. So the amendment is not necessary.”

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SRI K. C. GOPALAN UNNI :—“ ഏതാണ്ടു പത്തു ലക്ഷം ഹോൾഡിങ്സ് നാ ഉണ്ടെന്നു ബഹു : മന്ത്രി പറയുകയുണ്ടായി. മുമ്പത്തെ നിയമപ്രകാരം കുറെ കലക്ടർമാരെപ്പോലും മറ്റുജോഗസ്ഥാഭാരെയും നിശ്ചയിച്ചിരുന്നുവെന്നും അവർ പാട്ടു നിജപ്പെടുത്താൻ ആറു കൊല്ലം വേണ്ടിവരുന്നെന്നും മന്ത്രി പറയുകയുണ്ടായി. അപ്പോൾ പത്തു ലക്ഷം ഹോൾഡിങ്സ് സ്സിനെ സംബന്ധിച്ച് തീരുമാനമെടുക്കണമെങ്കിൽ എത്ര കാലം വേണ്ടിവരുന്നെന്നാണ് ഗവണ്മെന്റിന്റെ ഉദ്ദേശം ? അതോ അങ്ങിനെ പാട്ടു നിജപ്പെടുത്താനുള്ള ഹരജി ഉണ്ടാകയില്ലെന്നാണോ ഗവണ്മെന്റിന്റെ വിചാരം ? ”

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—**“ We are not having compulsory fixation of fair rent. It is only optional for the tenant, and the landlord also can apply after three years. So the question put by him does not arise. He has not read the Bill. That is why the mistake has arisen.”

*** SRI M. NARAYANA KURUP :—**“ Have the Government considered the suggestion in the Raghavendra Rao's Report that this need not be magnified? Officials more or less know which are the most rack-rented areas and this can be done very easily without going into all the ten lakhs of holdings.”

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—**“ The Government have considered all these aspects and they have come to the conclusion that the provisions made in this Bill are the best to safeguard the interests of the tenant and the landlord in Malabar.”

SRI V. R. KRISHNA AYYAR :—“ Sir, as regards Sri Kolke-bail's amendment, no doubt the sub-section provides that the Rent Court shall follow the procedure laid down in the Provincial Small Cause Courts Act. But it does not compel the Revenue Inspector, who will probably be deputed to inspect and report, to give notice to the parties and hear their representation. If no notice is given it may even be held illegal. It is a very very simple demand. That the amendment should be viewed with suspicion simply because it comes from the Opposition is rather strange.”

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—**“ It is not correct to say that I am not accepting the amendment because it comes from the Opposition. I will always accept what is reasonable. Sri Krishna Ayyar knows, I know and all lawyers know, that it is not necessary.”

*** SRI C. H. KANARAN :—**“ Will this authority tour and see things on the spot or arrive at decisions sitting at the office table? ”

*** THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—**“ An interpellation may be asked about this.”

*** SRI T. C. NARAYANAN NAMBIAR :—**“ The Hon. Minister for Law said just now that Sri V. R. Krishna Ayyar and the lawyers on this side know the thing. I consider it an insult. We may not know jurisprudence and the various Acts. But we know one thing that Revenue Inspector cannot do justice to the

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parties without hearing them. The Hon. Law Minister was saying that he was not accepting the amendment simply because it came from the Opposition."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" That is not correct. The misunderstanding must be due to my not being clear in my speech or due to the hon. Member not correctly following the speech."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, speaking about my amendment, I wish to submit that there should not be any void in the legislation that we pass."

Mr. SPEAKER :—" But the Government are not accepting the hon. Member's amendment."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" I wish to make one more representation. If the Government do not accept my amendment, I shall not press it.

" We should not take it for granted that a Tahsildar who functions as a Rent Court will always depute only a subordinate of his to make the local enquiry and inspection. There may be charges pending against a Tahsildar who is appointed as a Rent Court. The charges might have been initiated by the Collector and there may be ill-feeling between the Tahsildar and the Collector. The Tahsildar may be quite sure that the charges against him would be proved and he may like to exercise his power just on the eve of the charges being proved and punishment being inflicted upon him. So he may send an order to the Collector to go and make the local enquiry and inspection. The Collector may resent the order and say : ' I am your superior. I am the Head of a District and you cannot pass an order asking me to do the inspection '. But then the Tahsildar may say : ' I am the Rent Court and under this Act, I have got every authority to order you to make the local enquiry and inspection '. There will be an anomalous position, if my amendment is not accepted."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sri Krishnaswamy Ayyangar need not think that his suggestion has been ignored. It is not necessary to repeat in every section the point of jurisdiction and the point of authority. It is always presumed that a person cannot be given power to direct somebody superior to him and that somebody cannot do anything outside his own jurisdiction. All these are presumed while framing a law."

* SRI S. S. KOLKEBAIL :—" Sir, I would not have moved my amendment but for the fact that from the Report of the Joint Select Committee I find that certain extraordinary powers have been given to the Tahsildar or the Rent Court to appoint or depute anybody to go, hold an enquiry and collect data, and that such report might be marked as evidence. Such being the case, certainly the parties must be given the right to have notice of the inquiry. For instance, when the Munsiff appoints a commission,

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the rule provides that the commissioner should give notice to the parties concerned in the locality. We are asking only that much of right to be given. Here, there is no provision at all that the party should be given the right to cross-examine the officer who is responsible for submitting the report. But power has been given to mark such report straightway as evidence. By this amendment, I am seeking to give a right to the party concerned to cross-examine the officer responsible for submitting such report in the presence of the officer who is going to treat it as evidence. This is a simple amendment. I do not think that there will be any great harm in accepting it."

MR. SPEAKER :—" The question is—

(i) In sub-section (1) of the proposed section 9-C, for the word " Tahsildar ", substitute the words " Revenue Divisional Officer ".

(ii) In sub-section (2) of the proposed section 9-C, for the words " shall have the power to depute any officer of the Revenue Department ", substitute the words " shall have the power, or to depute any officer of the Revenue Department, ".

(iii) In sub-section (2) of the proposed section 9-C, after the words " any officer " occurring in line 7, insert the words and brackets " (not below the rank of a Tahsildar or Deputy Tahsildar) ".

(iv) In sub-section (2) of the proposed section 9-C, after the words " to make local enquiry and inspection and to collect data ", insert the words " after due notice to the parties ".

(v) Add at the end of sub-section (2) of the proposed section 9-C, the words and brackets " (after giving the parties the right to cross-examine the officer who held the local enquiry) ".

(vi) Other consequential amendments to be made to this clause."

The amendment was put and lost.

The following amendment of Sri P. S. Krishnaswamy Ayyangar was, by leave, withdrawn :—

" (i) In sub-section (2) of section 9-C, after the words ' any Officer of the Revenue Department ', insert the words ' subordinate to the officer functioning as Rent Court ' "

The following amendment of Sri T. C. Narayanan Nambiar was, by leave, withdrawn—

" For the proposed section 9-C, substitute the following :—

' 9-C. (1) The fair rent payable under sections 5 to 7 and 9 to 9-B, the instalments, if any, in which it shall be payable, and the date or dates on or before which such fair rent or the instalments thereof shall be payable, shall be determined by the Rent Settlement Authority in such manner as may be prescribed.

(2) The Rent Settlement Authority shall be the Village Panchayat Board wherever there is one, and in places where there is not one, a representative of the Government and the representative of the Janmi Sabha, the Kisan Sabha and Kisan Panchayat and the Kisan Congress which are accorded recognition by the Collector will constitute the Rent Settlement Authority.' "

Clause 9 was put and carried.

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Clause 10.

MR. SPEAKER :—" Now, let us take up clause 10."

* SRI T. C. NARAYANAN NAMBIAR :—" Before that, there is an amendment to section 9-E of the principal Act given notice of by me, namely, amendment No. 70."

MR. SPEAKER :—" Let us first dispose of clause 10. The hon. Member wants to introduce a new clause by means of his amendment."

* SRI T. C. NARAYANAN NAMBIAR :—" My amendment is an amendment to section 9-E of the principal Act."

THE HON. SRI C. RAJAGOPALACHARI :—" The clause proposed by the hon Member is a new one. So, let us dispose of clause 10 first."

Clause 10 was put and carried.

New clause after clause 10.

* SRI T. C. NARAYANAN NAMBIAR :—" Sir, I move the following amendment which stands in my name :—

' For section 9-E of the principal Act, substitute the following :—

" 9-E. It is left to the option of the tenant to pay the rent, either in cash or in kind."

" In Section 9-E of the principal Act, with regard to the mode of payment of fair rent, it is stated that if the landlord and the tenant agree, the tenant can pay the rent in kind or in cash, as the case may be. In this connection, I have to say this. Most of the big landlords live in far-off places. For example, in my own village, namely Narath village, we have got some 300 tenants whose landlords live in places thirty or forty miles away. If the landlord does not agree to the suggestion of the tenant that the fair rent will be paid in cash, the tenant concerned will have to carry the bags of paddy thirty or forty miles to the place of residence of the landlord, in which case the wages to be paid to the coolies who carry these bags of paddy will be too much of a hardship on the tenant.

" There is also another point to be considered. When this paddy, that is, rent in kind, is carried to the barn or the granary of the janmi concerned, there the janmi or his agent will measure it. While measuring it, the janmi or his agent, as the case may be, will put aside paddy, which we call ' nuri ', for every ten measures is over, he will take which may amount to some two or three paras of paddy. Apart from that, when the tenant takes the paddy to the granary of the landlord, the tenant will have to be at the mercy of the kariasthans or agents concerned. My humble suggestion is this. I have no objection to payment of rent in kind if the tenant so agrees. If it is left to the discretion of the landlord also, there is no purpose in saying ' at the option of the tenant '. I request the Hon. the Chief Minister to take these things into consideration and accept my amendment which gives the option only to the tenant."

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SRI K. MADHAVAN NAMBIAR :—“ സർ, ഞാൻ ഈ ഭേദഗതിയെ പിൻപറ്റുന്നു. കുടിയാൻ കുന്നും മലയും കയറി വളരെയധികം ദുരം കടന്നു ജന്മിയുടെ വീട്ടിൽ കൊണ്ടുകൊടുക്കുക എന്നുള്ളതുതന്നെ വളരെ വിഷമമാണ്. അങ്ങിനെ ചെന്നുകുഴിഞ്ഞാൽതന്നെ പലപ്പോഴും അളവിൽ കൃത്രിമം കാണിച്ചു മടക്കി അയക്കുന്നുണ്ട്. ജന്മിമാരെന്ന് പറഞ്ഞാൽ അധ്വാനിക്കുന്നവന്റെ പ്രയത്നഫലം തട്ടിത്തീരുന്ന ആളുകളാണ്. അതുകൊണ്ടു കുടിയാന്മാരുടെ സൗകര്യമനുസരിച്ചു വേണം പാട്ടാ കൊടുക്കൽ, എന്നു വ്യവസ്ഥ ചെയ്യണം. ജന്മിമാരുടെ ഹിതമനുസരിച്ചു പാടില്ല. കാരണം നെല്ലിനും അരിയ്ക്കും ക്ഷാമം നേരിടുന്ന കാലത്തു അധ്വാനിച്ച കൃഷിക്കാരൻ തിന്നാതെ ജന്മിയുടെ ധാന്യം തന്നെ കൊണ്ടുകൊടുക്കേണ്ടിവരിക എന്നതു കഷ്ടമാണ്.”

*** SRI C. H. KANARAN :—**“ സർ, കൂടാതെ പറ, കോട്ടയം പറ എന്നിങ്ങനെ പലതരം പറകൾ നടപ്പിലുണ്ട്. നെല്ലു കൊണ്ടുപോയാൽ അളവു ഏല്പിക്കാൻ സാധിക്കാതെ ജന്മി തികയില്ലെന്നു പറഞ്ഞു മടക്കിയതിനാൽ നിരിയെ കൊണ്ടുപോരേണ്ടിവന്നിട്ടുണ്ട്. അതുകൊണ്ടു നെല്ലെടുക്കിൽ നെല്ലിന്റെ മർക്കറ്റു വിച കൊടുത്താൽ മതിയെന്നുള്ള വ്യവസ്ഥ ആവശ്യമാണ്. കൃഷിക്കാർ അല്ലെങ്കിൽ വളരെ ബുദ്ധിമുട്ടുണ്ടാകുന്നതാണ്.”

***SRI R. KRISHNAN :—**“ സർ, കുടിയാന്മാർ ജന്മിയുടെ വീട്ടിൽ പോയി അളവുകൊടുക്കുന്നമേക്കിൽ ജന്മിയുടെ സൗകര്യം നോക്കണം. നെല്ലുകൊണ്ടു ചെന്നാൽ നാളെയൊ മറ്റൊന്നൊളം വശാൻ പറയും. ഇതു സാധാരണ പരിവാണം. പാവപ്പെട്ട കൃഷിക്കാരെ ഇങ്ങിനെ ഉപദ്രവിക്കുവാനുള്ള ഒരു വ്യവസ്ഥ ഈ ബില്ലിൽ ഉൾപ്പെടുത്തരുതേ എന്നു എനിക്ക് ബഹുമാനപ്പെട്ട മന്ത്രിമാരോടു ചരപേക്ഷയുണ്ട്.”

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SRI N. GOPALA MENON :—“ Mr. Speaker, the amendment that Mr. Narayanan Nambiar wants to introduce is against all humane considerations. Suppose there is a landlord who has got a plot of land which he has leased out to a tenant. If that tenant takes away the harvested yield to his home saying that he would pay cash for the paddy that he has harvested, the poor landlord on whose land the paddy is grown has to go to the Government Ration Shop and get rice, a description of which has been very frequently given on the floor of the House. That will be the position of many of the landlords if a provision is incorporated to the effect that the tenant will have the option to give the paddy to the landlord or not. Therefore, it is I say that humane consideration should be shown to the landlord.

“ One of the hon. Members said that the tenants have to take the paddy to great distances. Section 52 of the principal Act which refers to this subject clearly states as follows :—

‘ Where the rent is payable in kind, it shall be delivered to the landlord or his agent at the granary or some other place belonging to the landlord in the village where the holding is situated and of which due intimation has been given to the tenant, or in case the landlord has no such place, at the threshing floor where there is one, and where there is none, at some place in the village belonging to the tenant and of which due intimation has been given to the landlord.’

Therefore, it is clear that the produce has to be given in the village at the threshing floor of the tenant or the granary of the landlord. To say that the tenants will have to carry the produce for long distances and pay hire and so on, is all absolutely incorrect.”

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I do not have anything to say except to oppose the amendment.”

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MR. SPEAKER :—“ I am now going to put Sri T. C. Narayanan Nambiar's amendment to the vote of the house. The question is—

‘ For section 9-E of the principal Act, *substitute* the following :—

“ 9-E. It is left to the option of the tenant to pay the rent, either in cash or in kind.” ’ ’ ’

The amendment was put and lost.

Clause 11.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move the following amendment :—

‘ For the *existing clause*, *substitute the following, namely :—*

“ 11. *Substitution of new section for section 9-G in Madras Act XIV of 1930 :—for Section 9-G of the Principal Act, the following section shall be substituted, namely :—*

‘ 9-G. *Revision of fair rent.—The fair rent determined by the Rent Court shall not be liable to be revised on the application of the landlord before the expiry of twelve years from the date of the order of the Rent Court but may, for sufficient cause, be reduced by the said Court on the application of the tenant.*’ ’ ’ ’

MR. SPEAKER :—“ As this amendment is to substitute a new clause for the existing clause 11, I do not think hon. Members Sri P. S. Krishnaswamy Ayyangar will press his amendment to the original clause.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, even here the word ‘ date ’ is mentioned. My amendment to the original clause was to substitute the expression ‘ date ’ by the expression ‘ year ’. Now that the entire clause has been substituted by another new clause, I do not propose to move the amendment, Sir.”

MR. SPEAKER :—“ I think hon. Member Sri V. R. Krishna Ayyar also will not move his amendment No. 35 to this clause as the entire clause has been substituted by a new clause.”

SRI V. R. KRISHNA AYYAR :—“ I have spoken in support of this amendment while speaking on some other clause and it has had its fate. I am not moving it now.”

The Government amendment was put and carried.

Clause 11, as amended, was put and carried.

Clause 12.

MR. SPEAKER :—“ Hon. Member Sri T. C. Narayanan Nambiar cannot move his amendment as it has a negative effect. If he wants, he can oppose the clause.”

* SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I oppose clause No. 12, which has now been taken up for consideration. If this clause is passed, the present controversies, disputes, and

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troubles in the villages will continue. If a record of rights is maintained, so much trouble in the villages can be averted. So far as Malabar is concerned, from 1836 onwards, there have been agrarian troubles and quarrels due to disputes over the rights of properties of the parties concerned. Now, with regard to every holding if a record of rights was maintained, we could easily ascertain the right of the janmi, the right of the intermediary kanamdar and the right of the cultivating tenant, verumpattamdar, and the nature of the right of a particular tenant. A record of rights would, therefore, be very useful. Even in the interests of public peace and tranquility, it is quite essential to have a record of rights. I request the Government to accept my suggestion in this regard."

* SRI K. M. SEETHI SAHIB :—“ Sir, I strongly support clause 12 and oppose the points raised by my Friend Sri Narayanan Nambiar, who wanted the creation of a record of rights. Mr. Kurup was harping on the point that the abolition of the Rent Settlement Authority was an undesirable step and would cause great hardship and injustice to the tenant. I am of the opinion that if there is one beneficial and prompt thing done by the Government even before the enactment of this Bill with reference to the relationship between the landlord and tenant in Malabar, it is the abolition of the Rent Settlement Authority. The attempt to prepare a record of rights through that Authority has been found to be absolutely futile. From the experience of the Government too, and on representation from the public, the Government have rightly abolished that Authority. As a matter of fact, there is no necessity for the preparation of record of rights with the cost and the inconvenience and the inordinate delay that are incidental to such an attempt. The tendency of the present legislation being the liquidation of the intermediaries, there is no necessity for the preparation of a record of rights laying down the rights of the various links that constitute the relationship between the head janmi and the bottom tenant or the cultivating tenant. In cases of disputes, it will be open to the Rent Court and the Civil Court to decide them. For this purpose, we need not have the Rent Settlement Authority.

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a.m.

“ The amendment of the Government is very necessary and the earlier the Rent Settlement Authority goes, the better will be the prospects of peace and tranquillity in the district. As a matter of fact, it is only when there are disputes, that there should be someone to bring about a settlement. In all civilized countries, there exist land courts only to settle disputes regarding lands when they are referred to them. When there is no dispute between the landlord and the tenant, it is unwise to have compulsory fixation of fair rent which will unsettle the peaceful relations existing between the landlord and the tenant. We can have such a machinery where disputes arise and not otherwise. We need not stir up disputes and rouse the tenants or landlords to unsettle the present relationship by a compulsory settlement of rights and fixation of rents. That is absolutely unnecessary and undesirable in my humble opinion. I support the Government amendment and oppose Mr. Kurup and Mr. Nambiar.”

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* SRI M. NARAYANA KURUP :—“ Sir, I oppose the Government amendment. Many of the defects in any tenancy or agrarian reform can be traced to the fact that there are no statistics. The very fact that Malabar tenancy is something very strange to the people in other parts of the State indicates that there is no proper record of rights. I believe that such a record is maintained in respect of land in other parts of the State. The preparation of a record of rights need not be confused with the Rent Settlement Authority. Whenever the question of agrarian reform is taken up, the Government are saying that there are no proper statistics. They say : ‘ We have been considering it for years but still, in order that a satisfactory solution of the whole problem on a comprehensive scale might be evolved, we want statistics and we are preparing statistics.’ So, if, for effecting an agrarian reform, a record of rights is not necessary, then for what else it is necessary I do not know. By this means, the Government are trying to postpone introduction of agrarian reforms at least in respect of Malabar. I am sure no reform satisfactory to the various interests in Malabar can be evolved in the absence of a record of rights. Therefore, I oppose the Government amendment.”

* SRI A. APPU :—“ Sir, I rise to support the Government amendment and oppose the suggestions made by Mr. Kurup and Mr. Nambiar. The preparation of a record of rights is not an easy task. It would mean regular resettlement work and take a lot of time. It is also dangerous to allow such a thing to take place at this stage because it will take at least six years for the Rent Settlement Authority to finish the work and we have to depend upon the unscrupulous karnams. I understand that the village karnams were siding with landlords and sometimes with the tenants also with the result false records were prepared when the work was taken up last. It is not at all desirable to create a record of rights at this stage. Rent settlement will take at least six years to be completed. As suggested by Mr. Seethi, if there is a dispute it may be settled by a civil court. As I said, a record of rights was prepared at the time of the last resettlement in Malabar and this will be changing now and then. It can never be brought up-to-date. Therefore, I support the Government amendment.”

* DR. K. B. MENON :—“ Sir, it is surprising how a modern Government as the Madras Government claim themselves to be, can say that there is no necessity to keep records. Records are essential for any constructive reform to be taken up. I would ask the Government the question whether they are saying that no Government records need be kept and that the whole situation may be left in a nebulous state. Are the Government not preparing the ground to say that the Government have no information whenever a reform is asked for? Even with regard to unemployment, the Government have confessed on the floor of the House that they have no records, no facts, and that they cannot gather statistics because it would be very expensive and difficult. Therefore, is it not better at least at this stage to begin keeping records so that in future such facts and statistics as can be collected now may be available? I oppose the clause, Sir.”

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p.m.

* THE HON. SRI C. RAJAGOPALACHARI :—“ Sir, the Leader of the Praja Socialist Party has made an observation which may have far-reaching effects. It is true that the Government of Madras claim to be a model for others. But it is not true to say that they do not keep any records. The Socialist Party is getting internationally important now. That is why I am rising to answer his charge. The tenants and landlords are concerned with this legislation. In the proposed record of rights what is really intended to be done is to compile the landlord's rights. But the landlord's rights are in the record. Pattas are registered and the village officers have those records. If we now create a record of rights, it cannot include anyone who has no rights. As a matter of fact, we are proposing in this Bill to give various rights to persons who have no rights to be recorded at present. The tenants have no such rights such as will go into record. All that we can do is to prepare a list of names of persons who are really cultivating and nothing else can be done. If a record of rights is created, it will come to this that thereafter no landless man will have any chance to become a cultivator or tenant. Therefore, to create a record of rights in Malabar as is demanded by Mr. Kurup would be very adverse to the very people on whose behalf we are considering this Bill.”

* SRI T. C. NARAYANAN NAMBIAR :—“ Sir, Sri Seethi was saying that if a record of rights was maintained, then there would be troubles in future and that in the interests of peace and tranquillity, no such thing should be maintained. Sir, it is just like saying, 'we will give medicine if any epidemics or other diseases come, but we will not do anything to prevent them.' My suggestions are preventive in character and prevent the disease. But Sri Seethi says that it can be cured when it comes. I would request the Hon. the Chief Minister to reconsider the matter. He was saying that in the best interests of the tenants, who have no right at all at present, there should be no record of rights. What I say is that they have even now occupancy rights. They have got so many other interests which can be proved and also recorded. Therefore, it would be in the best interests of the tenantry, if it is maintained.”

SRI K. C. GOPALAN UNNI :—“ റിക്കാൾ ആഫ് റൈറ്റ്സിനെ സംബന്ധിച്ചുണ്ടാകുന്ന കഴിവില്ലാത്ത മേനോൻ കമ്മിറ്റിയുടെ ഒരു ശുപാർശയുടെ കെ. പി. സി. സി.യുടെ ഒരു ശുപാർശയും ഉണ്ട്. അതെങ്കിലും ഗവണ്മെന്റ് അംഗീകരിക്കുമോ എന്നറിഞ്ഞാൽ കൊള്ളാം.”

SRI K. M. SEETHI SAHIB :—“ I am sorry to say that the hon. Member Sri Nambiar has not understood what I said and brought in an analogy which did not apply to the remarks I made. I did not say that the record of rights will bring about troubles in the district in the sense in which he put it. What I said was, where there are no disputes there is no necessity for compulsory raising of disputes and settlement of matters. So his analogy does not apply to what I said. He has misunderstood and misquoted me. I never made the remarks ascribed to me by the hon. Member.”

The clause was put and carried.

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Clause 13.

SRI P. K. GOPALAKRISHNAN :—“ I beg to move—

‘ That for the words “ a protected ulkudi ”, substitute the words “ an ulkudi ”. ’ ”

* SRI M. NARAYANA KURUP :—“ How can these words be added or subtracted when the words themselves have not been defined? We have left the consideration of the definition clause to a later stage.”

MR. SPEAKER :—“ If consequential changes are necessary, we can make them then.”

* SRI P. K. GOPALAKRISHNAN :—“ Sir, the object of the Government is to protect only the ‘ protected ulkudis ’. The purpose of my amendment is that protection should be given to all. It is the prime necessity of life that every one should have an abode to live in. Government do not want to give that protection to all. I hope the Government will now reconsider the position and accept my amendment.”

SRI E. T. KUNHAN :—“ I second the amendment, Sir, and also move my amendment that—

‘ ReNUMBER the existing clause 13, as item (1) of that clause and insert the following as item (2) :—

“ (2) the following proviso shall be added at the end :—

‘ Provided that any ulkudidar who has been evicted from possession of ulkudi on or after 15th March 1952, shall be restored to possession on an application. ’ ”

* SRI T. C. NARAYANAN NAMBIAR :—“ I second the amendment, and move my amendment, namely,—

‘ For the second proviso in section 10 of the principal Act, substitute the following :—

“ Provided further that, in the case of a kanamdar whose kanartham exceeds 60 per cent of the values of the janmi's rights in the holding, the kanamdar shall not have the fixity of tenure. ”

“ Sir, I am moving this amendment in order to see that the difference between North and South Malabar is not maintained. So far as South Malabar is concerned, it is 60 per cent and so far as North Malabar is concerned it is 40 per cent. Actually there is not much difference between North and South Malabar. I therefore want that it should be 60 per cent for both North and South Malabar.”

SRI P. K. GOPALAKRISHNAN :—“ I second the amendment, Sir.”

MR. SPEAKER :—“ The Hon. Minister will now reply.”

* SRI P. K. GOPALAKRISHNAN :—“ The amendment moved by the hon. Member Sri Kunhan has not been explained, Sir.”

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MR. SPEAKER :—"Let him explain, I have no objection"

* SRI P. K. GOPALAKRISHNAN :—"I will do it on his behalf, Sir. The object of the amendment is to see that ulkudidars ousted from the land should be restored. The date 15th March 1951 is fixed in the amendment because it was on that date that the Malabar Tenancy Act of 1951 came into operation. Landlords have been evicting tenants because in that Act there is a provision stating that the provisions relating to ulkudi can be extended to all places in Malabar by a notification in the Gazette. Expecting that Government would issue such a notification, landlords were evicting ulkudidars even before this provision was actually extended to other places in Malabar. Now when a new amendment is brought to that Act, naturally those ousted from the land should be restored to possession from that date, namely, 15th March 1951. That is the intention of the amendment given notice of by the hon. Member Sri Kunhan. I hope Government will consider this and see that ulkudidars evicted are restored to possession from 15th March 1951."

* SRI C. H. KANARAN :—"Sir, I want to speak on the amendment moved by the hon. Member Sri Nambiar. വടക്കു മലബാറും തെക്കു മലബാറും തമ്മിൽ വ്യത്യസ്തമായ ഒരു നിയമം വെച്ചിട്ടുണ്ട്. കാനാമും വടക്കു മലബാറിൽ 40 ശതമാനമെന്നും തെക്കു മലബാറിൽ 60 ശതമാനമെന്നും കാണുന്നു. വടക്കു മലബാറിലും തെക്കു മലബാറിലെപ്പോലെ 60 ശതമാനമാക്കണമെന്നാണ് ഞാൻ പറയുന്നത്. കാനസംഖ്യ വർദ്ധിച്ചിട്ടുകൊണ്ട് കുടിയാന്മാരുടെ അപകാശങ്ങളെ നിഷേധിക്കാനുള്ള ശ്രമം നടക്കുന്നുണ്ടെന്നു തോന്നുന്നു. കോട്ടയം മുതലായ രാജ്യങ്ങളിൽ അധികം കാനസംഖ്യ തരണമെന്നു പറഞ്ഞു കുടിയാന്മാരെ ഉപദ്രവിക്കുന്നുണ്ട്. കൃഷിക്കാരന്മാർക്കു കിട്ടാൻവേണ്ടി 60 ശതമാനമെന്നുള്ളത് വടക്കു മലബാറിലേക്കും കൂടി ബാധകമാക്കണമെന്നാണ് എന്റെ അഭിപ്രായം."

SRI E T. KUNHAN :—"ഞാൻ ഈ ഭേദഗതി ഫോർമുലാക്കാനുള്ള കാരണം ഈ ബിൽ തയ്യാറാക്കിയിട്ടുള്ളത് 1953 മാർച്ച് 28-ാം തീയതിയാണ്. അതിനുശേഷം അനവധി ഉൾക്കടിക്കാൻ ബലമായി ഭരിച്ചിട്ടിട്ടുണ്ട്. അവർക്കു ഒരു ഭൂമികൾ തിരികെ കൊടുക്കണമെന്നുള്ളതാണ് എന്റെ ഭേദഗതിയുടെ ഉദ്ദേശം. അതു സ്വീകരിക്കുമെന്ന് വിശ്വസിക്കുന്നു."

* SRI K. UPPI :—"Sir, it is very surprising to hear hon. Members from North Malabar saying that the kanam in North Malabar is the same as the kanam in South Malabar. Kanam of North Malabar is nothing but usufructuary mortgage with the condition that only after a stated period the kanam amount will be paid and the kanari, the man who takes the land on kanam, is never considered a tenant. They are always big jenmis or moneyed people. The difference between North and South Malabar is, in South Malabar, Kanam is a tenure. Kanam amount is very nominal for the land the income from which might be thousand paras of paddy; the kanam is only 100 panams or so according to modern money it is about Rs. 20 only. There is michavaram, that is the tenant has to pay to the landlord a rent. On the other hand in North Malabar the kanari—I do not know whether any of the hon. Members from outside Malabar understands this term, kanari is one who takes the land on kanam—need not pay anything to the landlord. On the

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[Sri K. Uppi]

other hand, he will be receiving interest on the money invested by him on this land, from the rent on the land. It was to distinguish this from the South Malabar kanam that the clause was added in the Act of 1930. Kanam in North Malabar is entirely mortgage. It is only a misnomer to call it a kanam. It is just like saying that a man who mortgages his property should not have the right to take back the land by paying the amount. What is suggested in the amendment is really surprising and if it is accepted, it would really be a revolutionary thing, it would only be expropriation."

SRI V. R. KRISHNA AYYAR :—" Sir, I regret to point out that Mr. Uppi Sahib unfortunately did not speak about the realities as they took place in the year 1953. He referred to the Malabar Tenancy Act of 1929 which classified kanamdars as 'kanamdars of North Malabar' and 'kanamdars of South Malabar'. We are living in the year 1954 and do we want that classification to be continued now also? On the other hand, in the Madras Agriculturists' Relief Act, 'Kanamtham' has been excluded and there is no reference either to North Malabar or South Malabar. Common experience shows that kanam tenures are all of a sort and there is no need to make an invidious distinction and thus further complicate the law."

SRI K. UPPI :—" Let my hon. lawyer friend tell me whether the kanam of North Malabar is a tenure? "

SRI M. NARAYANA KURUP :—" I believe, Sir, we are discussing clause 13 relating to 'ulkudi'. How the question of kanam of North or South Malabar comes here? It has nothing to do with this clause."

MR. SPEAKER :—" The hon. Member, Sri Uppi, said something about 'Kanam'."

SRI V. R. KRISHNA AYYAR :—" Sir, now we are not concerned with the 'Kanam' of North or South Malabar."

" Kanam tenures are distinct from mortgages. The very use of the word 'Kanam' indicates it is not a mortgage. Really there is no reason why we should not classify Kanam lease-hold as a kind of tenure. If we accept the position that Kanam is a kind of tenure—as it is a tenure—then the point is, whether there is any reason why we should make a distinction between South and North Malabar by providing 60 per cent and 40 per cent respectively. There is no reality in it. I, therefore, commend the proposal to make it uniform for the whole of Malabar."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I oppose all the amendments. The hon. Member Sri Gopalakrishnan in his amendment wants that the words 'an ulkudi' should be substituted for the words 'a protected ulkudi'. The term 'protected ulkudi' is defined in the Act. Special privileges are given to these ulkudidars and an ulkudidar of even one year's standing enjoys all the benefits. Therefore, the Government are unable to accept this amendment."

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"As regards the amendment of Sri Kunhan, it is not possible to accept it. That amendment wants that retrospective effect should be given from 15th March 1952. If retrospective effect is given, many difficulties will arise. Therefore, we are unable to accept it.

"The third amendment relates to fixing the terms for security at 60 per cent. This matter was fully gone into and it was found necessary to make a distinction between North and South Malabar and the terms were fixed accordingly. I oppose that amendment also."

MR. SPEAKER:—"I am going to put the amendment of Mr. Gopalakrishnan to the vote of the House. The question is—

'For the words "a protected ulkudi", substitute the words "an ulkudi".'

The amendment was put and lost.

MR. SPEAKER:—"I am going to put the amendment of Mr. Kunhan to the vote of the House. The question is—

'Rename the existing clause 13, as item (1) of that clause and insert the following as item (2):—

"(2) the following proviso shall be added at the end:—

'Provided that any ulkudidar who has been evicted from possession of ulkudi on or after 15th March 1952, shall be restored to possession on an application.'"

The amendment was put and lost.

MR. SPEAKER:—"I am going to put the amendment of Sri Narayanan Nambiar to the vote of the House. The question is—

'For the second proviso in section 10 of the principal Act, substitute the following:—

"Provided further that, in the case of a kanamdar whose kanartham exceeds 60 per cent of the values of the jenmi's rights in the holding, the kanamdar shall not have the fixity of tenure."

The amendment was put and lost.

Clause 13 was put and carried.

Clause 14.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR:—"Sir, I move—

'For the proposed section 11, substitute the following:—

"11. Right to prove real nature of transaction.—(1) Notwithstanding anything in the Indian Evidence Act, 1872 (Central Act I of 1872), or in any other law for the time being in force, any person interested in any land may plead, adduce evidence and prove that a transaction entered into on or after the 1st January 1916 and purporting to be a mortgage of that land is not in fact a

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mortgage, but a transaction by way of kanam, kanam kuzhikanam, kuzhikanam, verumpattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 10.

(2) *Where under the last foregoing sub-section the Court holds that the transferee is entitled to fixity of tenure in accordance with the provisions of section 10, it shall be lawful for the Court to pass a decree containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instrument executed by the parties."*

"I shall answer the points raised by hon. Members in my reply."

MR. SPEAKER :—"In view of the Government amendment, I do not think it is necessary for the hon. Members Messrs. Narayana Kurup, Sankaranarayana Menon, Sreedharan, Koran, Kunhirama Kurup and Dr. K. B. Menon to move their amendments. The Government amendment seeks to change section 11."

* SRI M. NARAYANA KURUP :—"My submission is that in the Bill as presented to us, there was no sub-section. Therefore, I wanted to insert a new sub-section (2) and renumber the proposed section 11 as sub-section (1) of section 11. No doubt, the Government have incorporated in the new amendment some of the things which I wanted. That does not go the whole hog. Therefore, I want to move this portion of the amendment."

MR. SPEAKER :—"Let the hon. Member move that portion of the amendment."

SRI M. NARAYANA KURUP :—"Sir, I move—

'Insert the following as sub-section (2) :—

"(2) *Where according to a decision under section 11 (1) a transaction has been held to be a mortgage in fact, but a transaction by way of Kanam, Kanam Kuzhikanam, Kuzhikanam, Verumpattam or other lease, the amount purporting to be secured by way of mortgage shall with effect from date of decision—"*

Here in the Government amendment, it has been left nebulous, and I want to make it clear—

- (i) *be treated as Kanartham in case the transaction has been held to be a Kanam or Kanam Kuzhikanam and security for due payment of rent on other cases, and*
- (ii) *bear interest at the rate specified in the instrument relating to the transaction or at five and a half per cent per annum whichever is less.'*

In fact, it is an amplification of the unknown power that is vested in the amendment. Therefore, it is necessary."

SRI C. H. KANARAN :—"I second it."

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* SRI M. NARAYANA KURUP :—“ Now that I have moved my amendment, I want to explain it. Sir, this is an important clause. Persons connected with the tenancy system in Malabar would know that the first organized attempt at a tenancy reform was started in 1915 and the land-owners in order to overcome the probable effects of any legislation, converted since 1916 a number of Kanams and Kuzhikanams and other leases into mortgages. It was to safeguard the tenants against these transactions and to confer upon them the rights which these documents stood for originally, that section 52 (a) was incorporated in the Act of 1951. It is a very valuable section and I do not see that any purpose is served by deleting that section and incorporating a new section. It was no doubt a very long section but it was inevitable. Now, in trying to compress the whole matter into a small compass, it has been made obscure. In fact, the amendments proposed by me are bodily taken from the latter part of section 52-A of the Act of 1951. As I said, the substance of it is here but one important factor has been omitted. As we all know, Sir, this section gives the right to the tenant to claim, adduce evidence and prove that the transaction is not a mortgage but a lease. We can understand the heavy burden that is placed on the tenant in proving such a thing. The burden of proof is, therefore, an important factor in this case. What section 52-A of the Act of 1951 did was to lay down certain principles so that”

SRI Y. MANJAYA SHETTY :—“ Sir, on a point of order, a crow has entered the Assembly Hall and is causing a lot of disturbance.”

* SRI M. NARAYANA KURUP :—“ Sir, in the 1951 Act, in section 52-A, it was provided that if the kanam or the amount secured by a particular document was below a certain amount, there was a presumption in favour of the tenant that the document will be presumed not to be a mortgage. But a change has now been made inasmuch as this right has been taken away. Moreover, Sir, when the court or any other authority has to decide whether a Sir, when the court or any other authority, has to decide whether a or a lease, what principles it should follow has not been explicitly stated. Even in the present amendment proposed by Government, I submit that it is bad to leave things in a nebulous state. Therefore what the Courts should do, as provided for in the original section must also be provided here. If the Government is bent upon inserting this section in place of section 52-A of the Act of 1951, my submission is that the purpose will be better served if this new Clause is not pressed and the old Clause is allowed to stand. In case the Government think that it is absolutely necessary to do so, I would press for my amendment.”

* SRI V. R. KRISHNA AYYAR :—“ Mr. Speaker, Sir, in the original Bill that the Hon. the Minister for Law introduced in this House, there was a Clause directing the deletion of section 52-A.

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The content of section 52-A is simply that in respect of a transaction which has come into being on or after 1st January 1916, the tenant is given the right to agitate the real character of the transaction whether it is a tenancy, a leasehold or a mortgage. I think that after 1st January 1916, the date statutorily presumed to be the date from which the agitation for tenancy reform started the landlords have been trying the ruse of converting all the kanam and other leasehold rights into mortgages. If it is a mortgage, it cannot obviously be a tenure and it is easy for the landlord to recover possession at will or to alter the terms at his will because it is a mortgage governed by the Transfer of Property Act. Under section 52-A of the Act of 1951 it was open to the tenant to approach the Rent Settlement Authority and establish the true character or the real nature of the transaction and to prove that it was only a leasehold right and not a deed in the guise of a mortgage. This has now been changed. The tenant must be given all the rights and protection to which he is entitled as a tenancy holder. This Statute of 1951 has provided yet another valuable presumption and though it is only of a provisional character it amounts to almost a substantive right. The proviso to sub-clause (1) of Clause 52-A states that if it is found that the mortgage amount is less than 60 per cent of the value of the janmi's rights in the holding in South Malabar and in other places less than 40 per cent of the value of such rights the presumption is in favour of the tenant that it is really a kanam and not one of mortgage. This is the most important part of the whole of section 52-A. A very innocuous reason, a very harmless reason and a very pious-looking reason was given, namely, that after all they were doing away with the Rent Settlement Authorities and therefore there was no reason why they should have section 52-A of the Act of 1951. This was the reason given for the deletion of this Clause when the present Bill was introduced. It could hardly convince anyone and I am sure that even the Hon. the Minister for Law himself is not convinced. If the Rent Settlement Authority is to be taken away, why should the right of the tenant to agitate the real nature of the transaction be also taken away? It passes one's comprehension and there is very little of logic behind it. If the Rent Settlement Authority is to be done away with, in section 52-A, instead of the words 'Rent Settlement Authority' the words 'Rent Courts' or the 'Civil courts' or whichever authority, as the case may be the Government choose to nominate, may be substituted. This authority may be clothed with the powers of the Rent Settlement Authority and the substantive rights given to the tenants need not be taken away under the guise or the Pretext of the elimination of the Rent Settlement Authority. Suppose, we say that a particular Tribunal is to be eliminated, that does not mean that the rights conferred upon the parties to agitate before that Tribunal should also be extinguished. The powers should be conferred on the alternative Tribunal that is to be provided. In this case, the Rent Settlement Authority has been abolished but the valuable right of the tenant to agitate the real nature of the transactions has been taken away. This aspect was urged before the Select Committee and what has

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come up as a result of this is the new section 11 to the principal Act of 1930. In the beginning, all that the Hon. the Law Minister gave as the reason was that as the Rent Settlement Authorities were to be abolished the Government did not want section 52-A of the Act of 1931. The real object, as it has now been disclosed, is to see that as much as possible of the right to agitate the real nature of the transaction is taken away. When in the Select Committee this cause was championed by various sections of the Members of the Committee the Hon. the Law Minister found that the clause to delete section 52-A had to be replaced and in the replacement thereof he did what harm he could to the tenantry, if I may put it that way. I am only bringing it to the notice of the Government because, if the Hon. the Chief Minister also adverts to it, it will be apparent that it is an unnecessary harm inflicted upon the tenant. The new section 11—*Right to prove real nature of transaction*—says that it shall be open to the party to go before the Rent Court notwithstanding anything contained in the Indian Evidence Act. But it has not been so specified in the section and the Rent Court is not specified in it."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" It is not specified as the Rent Court and therefore it has to come before a Civil Court."

12-10
P.m.

* SRI V. R. KRISHNA AYYAR :—" But Sir, we cannot take leave so completely of the practical side of things. What happens in a Civil Court is that when a document describes itself as a mortgage, although in all its previous history and in all its previous career, it was described as kanam, the Civil Courts always hold that the parties with their eyes open described it as a mortgage and there is no reason why it should be considered as a kanam deed. This will always be so unless there is some rule, a presumption or a statutory indication to the Courts that it is a kanam deed and not a mortgage. In a very recent case, 1, M.L.J. 1952, if the hon. Members would only consult it, the same point arose. For over 50 years a party was having a leasehold right and then right about 1924 or so, if I may say so, it was quietly converted into a mortgage. The same point was agitated before the Courts saying that the entire character of the transaction and the entire history of the transaction showed that the party was only a lessee and was only a tenure holder and the transaction was not a mortgage. The matter came up before the High Court in 1952 and the hon. Justice Raghava Rao held in spite of all these protests that the parties had entered into the transaction with their eyes wide open and they had themselves chosen to call it a mortgage and, therefore, there was no reason not to recognize the formal character of the words in which the deed was couched and that it was really a mortgage and not a kanam.

1 p.m.

" It has been stated that the new section (section 11 to the principal Act) introduced by the Government is a substitution for

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section 52-A of the principal Act. But the main valuable guarantee provided under section 52-A has been taken away. There is no reason why such a substantive right should be taken away. In the beginning, a lame reason was given that as the Rent Settlement Authorities are to be abolished, the Government do not want section 52-A of the old Act. If the Rent Settlement Authorities are to be abolished, why not the Government nominate some other authority and clothe them with the powers of the Rent Settlement Authority so that substantive rights given under section 52-A may not be taken away. I entreat and beg of the Government to consider this matter. The amendment moved by Sri M. Narayana Kurup does not offend any principle, and may be accepted."

* SRI K. M. SEETHI SAHIB :—" Mr. Speaker, Sir, we have given notice of an amendment relating to section 52-A of the principal Act."

MR. SPEAKER :—" The hon. Member's amendment relates to clause 21 of the Bill and can be taken up when we come to that clause."

* SRI K. M. SEETHI SAHIB :—" What I wish to emphasise, Sir, is that the presumption provided in section 52-A is a very valuable right in favour of the tenant and that the proviso to section 52-A should be inserted in the new section 11 proposed by the Government under clause XIV of the Bill, if that section is really to be useful for the tenant. As it is, there is a very wide margin left to the civil courts in the matter of judging the real nature of a transaction, as has been pointed out by the previous speaker Sri V. R. Krishna Ayyar in the reference to the reported case 1 M.L.J. 1952. I request that either section 52-A should be retained or that the most important part of section 52-A should be inserted in the new section—section 11—and it is only then the section will serve the purpose for which it is intended."

* SRI P. K. GOPALAKRISHNAN :—" Mr. Speaker, Sir, I support whatever has been stated by hon. Members Sri V. R. Krishna Ayyar, Sri M. Narayana Kurup and Sri K. M. Seethi. The new section 11 is ostensibly a substitute for section 52-A which gives a presumption valuable to the tenants. The proviso to section 52-A reads as follows :—

' Provided that in cases where the amount secured by the mortgage is in South Malabar less than sixty per cent of the value of the janmi's rights in the holding, and in other places less than forty per cent of the value of such rights, the Rent Settlement Authority shall until the contrary is proved, presume that the transaction is not one of mortgage. '

In the above section, the words ' Rent Settlement Authority ' can be replaced by the words ' Rent Court '. As far back as 1916, the janmis have been changing kanam deeds into mortgage deeds. In my very constituency fifty per cent of the kanam deeds have been converted into mortgage deeds. The presumption provided for in the proviso to section 52-A has been working very usefully

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in favour of the tenants. I do not know why this important proviso should be removed. I trust the Hon. Chief Minister will restore it in the new section."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Mr. Speaker, Sir, I oppose the amendment. It is not necessary to accept it, as all the material things that the members who spoke in favour of the amendment are in the new section 11 proposed by the Government. Hon. Members are aware that we have abolished the Rent Settlement Authorities altogether. When questions have to be settled by such a Tribunal as the Rent Settlement Authority, specific directions, the method of procedure, etc., have to be dealt with in detail in the new section. Deciding the nature of a transaction is within the inherent rights of a civil court. I have already submitted at the time of the Select Committee that this is a right which the civil courts have got. Every man can go to a civil court to prove that a document is not a mortgage or tenancy or conditional assignment and get them agitated in a civil court and no presumption or procedure is to be prescribed in respect of that. But to satisfy some of the Members, we have brought this section and this deals with all the materials necessary and we cannot say that the civil court has to proceed in this or in that manner. Sir, in the Government amendment a new sub-section is brought forth to see that clarification is made how the amounts secured in the document are to be treated. With the addition of this, the whole problem can be easily solved and there is no difficulty as to the suffering of a tenant or the suffering of a landlord. I request that the Government amendment may be passed and that the other amendment may be withdrawn."

* SRI V. R. KRISHNA AYYAR :—" Sir, on a point of clarification, section 52-A confers certain rights. There is hardly any reason why at all under a Government with a progressive complexion we should take away the rights conferred by Mr. Madhava Menon's law. If a right which is claimed by all the Members belonging to Malabar district as valuable is taken away, then the measure cannot be called progressive. Originally the Government told us that the reason for the repeal of this section 52-A was that Rent Settlement Authorities were being abolished. Now the Government are saying that as the Rent Settlement Authorities are not conversant with the law 'presumptions' had to be given to them. But as far as the civil courts are concerned, no such presumptions need be given because they know all about the law. 'Presumptions' are an important branch of law and where presumptions have to be drawn, it is better to lay down in the law the circumstances under which a presumption should be raised. The civil courts always attach importance to the formal character of the documents. Even under the Debt Relief Act . . ."

THE HON. SRI C. RAJAGOPALACHARI :—" On a point of order. It has become a habit in the course of this debate that

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replies by Members are given after the Law Minister's speech and the Law Minister is left behind. Once or twice it does not matter. I would like to know whether it is all right."

* SRI V. R. KRISHNA AYYAR :—" The Law Minister is not left behind because he can certainly answer any point that is left behind and if continuity is necessary for the completion of discussion, such a procedure may be necessary. I was saying that the civil courts take into account the formal character of the documents whether they are single transactions of mortgage or whether they are double transactions of mortgage and lease. Civil courts always hold that legally they are two formal transactions. The danger arising from such a position has already been brought home by the recent decision of the High Court which I have mentioned earlier. In spite of that, the Hon. Minister clings to his point of view.

" The formal character is what is going to be enforced by Civil Court. Therefore, I say once a document is found to be not a mortgage deed we are not going to care whether it is kanam or any other deed. There should be certain circumstances under which a presumption may be raised. In fact, in the original Act such a presumption was given. But now it is deleted. This is a matter of prestige. The existence of presumption is a question wherein the tenants would be protected for, in a majority of cases, the deeds are kanam deeds even though it is argued that they are mortgage deeds. By the deletion of that provision the real object of Government seems to be to take away the rights of the tenants to prove that the deeds are kanam deeds, which right had been given by the previous Act. I, therefore, implore the Hon. Minister for Law not to exhibit a recalcitrant attitude but accept our salient suggestion restoring the right of presumption to the Rent Court, which right had been given under the original Act to the Rent Settlement Authority." 12-20
P.m.

* SRI M. NARAYANA KURUP :—" I have nothing to say because my stand had been ably supported by hon. Members sitting behind me. Whenever anything is said about the landlords, the Government feel very touchy. Whatever beneficial provision in respect of tenants the Act of 1951 contained, has now been deleted. The Government are determined to do some mischief or other. For instance, they have now removed this important provision giving the right of presumption, which right had been given to the Rent Settlement Authority by the 1951 Act. I do not know the reason why the Hon. Law Minister is so very persistent to delete the previous important proviso and in its stead incorporate a reactionary provision, in a progressive piece of legislation."

* THE HON. SRI C. RAJAGOPALACHARI :—" Since everyone has been rising again and again for clarification, I rise to make one matter clear to hon. Members sitting opposite. It may be taken for granted and it is not necessary to repeat it. The Opposition may hold and maintain that Sri Madhava Menon's Bill was

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better than this Bill and that this Government are always favouring the landlords. It is not necessary to repeat these charges at every stage. They may preserve it as a propaganda point. But the question here is really a question of law. It is a legal procedure and not a matter to be dealt with otherwise. Mr. Krishna Ayyar says that a presumption should be raised and should not be allowed to be dropped by any amendment now made. As a matter of fact, in the amendment now moved, that presumption is preserved. In respect of any written document, in spite of the provision in the Evidence Act that a written document cannot be reversed by oral evidence, it is now specifically provided as a specific measure of law that a presumption may be raised. The only question is that the presumption should not be a conclusive presumption, as Mr. Krishna Ayyar wants it, but it should be a rebuttable presumption. In fact, in the present amendment the existing presumption as a rebuttable presumption is preserved."

* SRI V. R. KRISHNA AYYAR :—" On a point of personal explanation, Sir, I am not for irrebuttable or conclusive presumption. In fact in the 1951 Act an irrebuttable presumption is provided for. That is why I said inasmuch as that presumption is now taken away, it is wrong on the part of Government to have done so. That is why I pleaded for the re-insertion of that important proviso to section 52-A of the principal Act."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" I have nothing to say on the merits of the clause. The position has been made clear by the Hon. the Chief Minister. I do not think it would be proper for me to answer here to the political aspect of the speeches."

* SRI V. R. KRISHNA AYYAR :—" If points are raised, they have got to be met here. I think hon. Members have a right to raise their points in this House. A duty is cast on the Hon. Ministers to consider the suggestions of hon. Members. I want to raise the point of order whether it is not wrong if the hon. Members are denied the right to express their viewpoints in this House and even when they do raise some points, the Hon. Ministers do not reply to them."

* THE HON. SRI C. RAJAGOPALACHARI :—" Instead of arguing on the merits of the clause under discussion if the hon. Members were to go on accusing the Government of being always in favour of the landlords, that they are pro-landlord, and that some other Bill, perhaps Mr. Madhava Menon's Bill, was by far better than the present Bill now under discussion there is nothing gained, and I say it is wrong for hon. Members to indulge in that kind of argument. That is only propaganda. Hon. Members should raise points in respect of the merits of the provisions contained in the Bill and not compare them with some other proposals made at some other time. They should not repeat the slogan that the Government are always pro-landlord, which is not true."

SRI V. R. KRISHNA AYYAR :—" Sir . . . "

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MR. SPEAKER :—" I have given enough time. I shall now put amendment No. 7 to the vote of the House. The question is—

' *Insert the following as sub-section (2) :—*

" (2) Where according to a decision under 11 (1) a transaction has been held to be a mortgage in fact, but a transaction by way of Kanam, Kanam Kuzhikkanam, Kuzhikkanam, Verumpattam or other lease, the amount purporting to be secured by way of mortgage shall with effect from date of decision :—

(i) be treated as Kanartham in case the transaction has been held to be a kanam or kanam kuzhikanam and security for due payment of rent on other cases, and

(ii) bear interest at the rate specified in the instrument relating to the transaction or at five and a half per cent per annum whichever is less." " "

The amendment was put and lost.

MR. SPEAKER :—" I shall now put the Government amendment to the vote of the House. The question is—

' *For the proposed section 11, substitute the following :-*

" 11. *Right to prove real nature of transaction.*—(1) Notwithstanding anything in the Indian Evidence Act, 1872 (Central Act I of 1872), or in any other law for the time being in force, any person interested in any land may plead, adduce evidence and prove that a transaction entered into on or after the 1st January 1916 and purporting to be a mortgage of that land is not in fact a mortgage, but a transaction by way of kanam, kanam kuzhikanam, kuzhikanam, verumpattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 10.

(2) Where under the last foregoing sub-section the Court holds that the transferee is entitled to fixity of tenure in accordance with the provisions of section 10, it shall be lawful for the Court to pass a decree containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instrument executed by the parties." " "

The amendment was put and carried.

The clause as amended was put and carried.

Clause 15.

MR. SPEAKER :—" I wish to inform hon. Members who have given notice of amendments in respect of this clause, that the Government have given notice of an amendment substituting a new clause for the existing clause. The amendments of hon. Members which relate to the original clause are not necessary now. Therefore I wish to know whether in the circumstances the hon. Members wish to press those amendments."

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* SRI M. NARAYANA KURUP :—“ It is true that the Government have now come forward with a new amendment by which a new clause is now sought to be substituted in respect of the original clause 15. But the Government have not made substantial changes. For instance, I think, our amendment that clause (5) of section 14 of the principal Act dealing with bona fide cultivation be omitted, is necessary.”

MR. SPEAKER :—“ I shall allow the hon. Member to move that amendment then.”

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move—

‘ For the existing clause, substitute the following :—

“ 15. Amendment of sections 14 and 20, Madras Act XIV of 1930.—In sections 14 and 20 of the principal Act—
(1) after clause (5), the following shall be added, namely :—

‘ Explanation.—In considering requirements for maintenance, regard shall be had only to primary needs.’

(2) in clause (6) the word ‘ bona fide ’ occurring between the word ‘ thereof ’ and the words ‘ for the purpose ’ shall be omitted and between the words ‘ a building ’ and the words ‘ for his own residence ’ the word ‘ bona fide ’ shall be inserted.

(3) in the second proviso—

(i) in clause (ii), for the words ‘ an ulkudi ’, the words ‘ a protected ulkudi ’ shall be substituted,

(ii) after clause (ii), the following shall be added as clause (iii), namely :—

‘ iii) no person whose rights to evict arises under an instrument of transfer inter vivos shall be entitled to sue for eviction on the ground specified in clause (5) or clause (6) until the expiry of two years from the date of the instrument.’

(4) In section 14 of the principal Act, after the Explanation to clause (5), add the following :—

‘ Exception.—Nothing in this cause shall apply to any holding which has been in the continuous occupation of the tenant or of any member of his tarwad, tavazhi, illom, kutumba, kavaru or family for not less than six years.’ ”

12-30 p.m. * SRI M. NARAYANA KURUP :—“ Sir, I move the amendment standing in the name—

For the existing item (1), substitute the following :—

“ (1) Clause 5 shall be omitted.”

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Sir, the Government have moved an Exception to Clause (5) to sections 14 and 20 of the principal Act. I am moving another Exception, namely :—

' Re-number the proposed Exception under Clause (5) as Exception No. 1 and insert the following as Exception No. 2 :—

" Exception No. 2.—In case of any other holding in the occupation of a tenant it shall apply only to that part of the holding in excess of lands assessed to or assessable to Rs. 50 per annum."

I am not moving the amendment for the insertion of the new item (2-A). The Government have said that an assignee or a transferee will not be entitled to take advantage of Clause (5) for two years. My proposal is to raise it to twelve years. The Government have said ' under an instrument of transfer *inter vivos* '. I want to insert the words ' either voluntary or involuntary ' after the words ' *inter vivos* ' so as to cover cases of involuntary transfers by Courts. I am moving this amendment also, namely—

' In the proposed new clause (iii) to the second proviso,

(i) after the words " inter vivos ", insert the words " either voluntary or involuntary " ;

(ii) for the words " two years ", substitute the words " twelve years " . "

The motion was duly seconded.

SRI P. K. GOPALAKRISHNAN :—" I am moving the amendment, standing in my name, namely,—

' For the existing clause, substitute the following :—

" 15. Repeal of Sections 14 and 20, Madras Act XIV of 1930 :—Sections 14 and 20 of the principal Act shall be repealed and the following section shall be inserted, namely :—

' A landlord possessing less than five acres of land can evict upto five acres of land from a tenant possessing land more than five acres :

Provided that the total extent of land in the possession of landlord including land to which he becomes entitled for possession after evicting the tenant shall not exceed five acres :

Provided also the land in the possession of the tenant after eviction shall not be less than five acres.' " "

The motion was duly seconded.

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SRI K. P. GOPALAN :—“ Sir, I am moving the amendment standing in my name—

“ For the existing clause, substitute the following :—

“ 15. Repeal of Sections 14 and 20, Madras Act XIV of 1930.—Sections 14 and 20 of the principal Act shall be repeated.” ” ”

The motion was duly seconded.

* SRI V. R. KRISHNA AYYAR :—“ Sir, I am moving the amendments standing in my name—

‘ Add at the end of the Explanation the words “ of food, shelter and clothing ”.

After item (3), insert the following as item (4) :—

“ (4) after the existing provisos, the following further provisos and Explanations shall be added, namely :—

‘ Provided further that no holding shall be evicted if the tenant or occupant thereof or any part thereof be an educational, charitable, philanthropic or other public institution;

Provided further that no tenant shall be evicted by any person who is a “ large farmer ”, or a “ non-agriculturist ” on the date of the institution of the proceeding for eviction;

Provided further that if the tenant, in the event of such eviction, will have in his actual enjoyment either as tenant or otherwise, in all only less than five acres of land, he shall not be evicted from the holding or any part thereof; if there are more suits than one for eviction against the same tenant, the landlord who institutes the earlier suit will have preference under this clause in respect of any land held by the tenant in excess of the extent specified above;

Provided further that a landlord who requires any holding bona fide for the cultivation of himself or of any member of his family, shall be entitled to evict a tenant who is a large farmer in respect of any excess over the minimum required to make him a “ large farmer ”.

Explanation.—Large farmer with reference to any particular date means any person who being an individual has more than the equivalent of 25 acres of wet land in his actual possession and if a family has in its actual enjoyment more than the equivalent of 60 acres or five acres per member (whichever is less) of wet lands;

Explanation.—For the purpose of this section if the context requires it one acre of wet land shall be treated as the equivalent of three acres of garden land and 10 acres of dry land (forests and mere waste being excluded).

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Explanation.—“ Non-agriculturist ” with reference to a particular date, means a person who has been assessed in any of the two financial years immediately preceding the date of suit to income-tax under the Indian Income-tax Act, 1922 or has, in all, the four half year immediately preceding the date of suit been assessed profession tax on a half-yearly income of more than Rs. 750 derived from a profession other than agriculture under the Madras District Municipalities Act, the Cantonment Act, the Madras Local Boards Act or the Madras Village Panchayats Act or has been assessed to property or house tax under any of the aforesaid four Acts within the same period where the aggregate annual value of the property or building is not less than Rs. 1,000 as ascertained in the manner prescribed.”

The motion was duly seconded.

* SRI K. M. SEETHI SAHIB :—“ Sir, the existing provision in the Act gives a loophole to the landlord to circumvent the Act. I have given notice of an amendment and I move—

‘ 11. (i) Omit the Exception under item (1).

(ii) After item (2), insert the following as item (2-A) :—

“ (2-A) after clause (6), the following shall be added, namely :—

‘ Exception.—Nothing in sub-clauses (5) and (6) shall apply to any holding which has been in the continuous occupation of the tenant or any member of his tarwad, tarazhi, illom, kutumba, kavaru or family for not less than twelve years.’ ”

(iii) In item (3) (ii), in the proposed clause (iii), omit the words “ until the expiry of two years from the date of the instrument ”.

The motion was duly seconded.

* SRI T. C. NARAYANAN NAMBIAR :—“ I am moving the amendment standing in my name, namely :—

‘ Omit items (1), (2) and (4) of sections 14 and 20 of the principal Act.

In item (3) of section 14 of the principal Act for the words “ three months ”, substitute the words “ one year ”.

Add the following proviso to that item :—

“ Provided that if the tenant in the event of eviction under items (5), (6) or (7) will have in actual enjoyment either as tenant or otherwise in all only five or less than five acres of wet land he shall not be evicted from the holding and if he has more than five acres of wet land only the excess shall be available for eviction and in no

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case shall the landlord be entitled to claim eviction under the aforesaid clause if he has already in his actual cultivation an extent of five acres of land.

Explanation.—One acre of land is equal to two acres of garden land and three acres of dry land."

In item (3) (ii) of clause 15, in the proposed clause (iii) for the words "two years", substitute the words "six years." " "

The motion was duly seconded.

SRI P. K. GOPALAKRISHNAN :—" I am moving amendment standing in my name—

After item (3), add the following item (4) :—

" (4) the following further proviso shall be added, namely :—

' Provided further that any tenant of "ulkudi", "protected ulkudi" or "kudikidappu" who has been evicted from possession of the site of land in his possession from 28th March 1953 shall be restored to possession of the land in question.' " " "

The motion was duly seconded.

MR. SPEAKER :—" All these amendments are before the House for discussion."

* SRI T. C. NARAYANAN NAMBIAR :—" Sir, in moving the amendment to delete items (1), (2) and (4) of Sections 14 and 20 of the principal Act, I wish to submit that this is a very important amendment. Landlords want to keep the peasantry in perpetual fear and slavery. No useful purpose will be served by keeping these clauses on the Statute Book. That is why I say that these clauses should be omitted. Clause (3) of Section 14 of the principal Act lays down that a suit for eviction shall lie if the tenant has not paid, within three months after the due date, the whole or any portion of the rent due in respect of the holding. The custom in Malabar is that the first harvest takes place in the month of Kanni, that is September. The second crop is harvested by the month of Kumbum, that is March-April. I want to raise the time-limit to one year. The harvesting seasons in Malabar, as pointed out by me, are such that it will be absolutely impossible for the tenant to stick to the time-limit provided in the clause. Because some concessions are made in favour of the tenants, the landlords will get infuriated and they will try to wreak vengeance upon the peasantry. I request that this amendment raising the time-limit to one year may be accepted.

" The object of my other amendment is this. Under Clauses (5), (6) and (7) of Section 14 of the principal Act, the tenant can be evicted if the landlord requires the holding *bona fide* for his own purposes at the end of an agricultural year. Although the Government have considered our request and the representation made by

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the jatha which came and met the Hon. Chief Minister and as a result of our discussion the Hon. Chief Minister was kind enough to reduce 12 years to six years for occupancy right, there are poor people who have got one or two acres or even less and who may not have six years occupancy also. These people will be hit hard and they can be evicted by the landlords. Even our friend Sri Sankaravarma Raja pointed out the other day that there are a large number of poor landlords. My suggestion is that a tenant who has in actual enjoyment either as a tenant or otherwise only five or less than five acres of wet lands shall not be evicted from the holding. Only the excess over five acres should be made available for eviction and it is to this effect that I have given notice of this amendment. I request that this may also be favourably considered."

* SRI M. NARAYANA KURUP :—"I shall only briefly refer to my amendments. As I have said already, the most important questions are fair rent and fixity of tenure. On the question of fair rent, we have been found against. We are on the second line of defence and of course, our discussion on this tenancy Bill will practically conclude with this section. Sir, security of tenure is the most-prized right of a tenant. Insecurity has been made a lever for rack-renting, and that has been the bane of cultivating tenants in Malabar. Therefore security of tenure is very important. We realize that the security or fixity of tenure given to tenants with six years' standing is an improvement. We do not grudge to give credit where it is due; it should not be thought that we are opposing even good laws. As has been pointed out, a large class of small tenants who are at the mercy of landlords are outside the protection of security of tenure given by this Act. Therefore I have moved an amendment that at least with respect to such tenants, the eviction may be restricted to land in excess of five acres. Of course, our main demand is that clause (5) should be deleted, because if any loophole for eviction is given, the provision is likely to be abused. 'Bona fide purpose' is capable of such varied and various interpretations that the provision is likely to be abused. Such abuse has been there in the past and it will continue in future also.

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"Length of possession has never been recognized as a basis for conferring occupancy right, and the opinion of the Subrahmanyam Committee on this aspect is very illuminating. In fact, to base occupancy right on the length of possession of the tenant is tantamount to penalising a good and benevolent landlord who allowed the same tenant to cultivate his lands for a period of years and conferring an undue advantage on a bad and malevolent landlord who has been changing his tenants capriciously. Therefore I press my plea that it is not a sound proposition. If we give fixity of tenure, it must be to all tenants alike irrespective of the length of occupation.

"One of the ways in which the provision permitting eviction for bona fide purposes has been abused is by the assignment of the lands by the owner. If a tenant is not in the good books of his landlord, the landlord, even though he may have thousands of

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acres, may assign that particular plot of land in his possession to a third party. If that assignee institutes a suit for eviction, the tenant has no defence under sections 14 and 20 of the principal Act. Such abuse has been going on ever since these sections have been there on the Statute Book. Of course, in this Bill the Government have provided for a two-year period. But a two-year period is too short. I have suggested twelve years, because twelve years is the period prescribed for obtaining a prescriptive right under the Limitation Act. If the Government are not prepared to disallow the right of the assignee, I submit that at least the twelve-year period may be accepted.

“ There is another provision in this Bill which confers upon the tenant the right to treat any document executed by him as void and not binding upon him. There it has been provided—I am not accusing the Government of partiality—that the assignee or transferee is not entitled to that right. It has been conferred as a personal right and it cannot be availed of by a transferee. In the same manner why should not the right of eviction for bona fide purposes be confined to the owner himself and the assignee or transferee debarred from enjoying that right? I find neither logic nor reason in this. Therefore I press that this right must be conferred on the owner as a personal right. It should not be extended to assignees and if at all it should be extended to them, it may be after twelve years.

"Then, transfer *inter vivos* is a transaction between two parties, but it does not cover sales involuntary by Court. A landlord may become insolvent and his property may be sold by the Official Assignee or Official Receiver. This Bill does not cover such transactions. We know how section 73 of the Civil Procedure Code has been misused. When an honest creditor obtains a decree, bogus and collusive documents are obtained for the purpose of ratable distribution. In the same manner, if a landlord cannot get at the property by assignment, he will suffer a suit to be filed. A property may be sold in adjudication or a mortgaged property may be sold for realizing the mortgage amount. This Bill does not cover such transactions, because they are not transfer *inter vivos*. So I request the Government to so amend the Bill as to cover sales involuntary also. I have covered the most important points that I wanted to say in a very summary way. After the Hon. Minister replies to these points, I shall offer my remarks if I have got anything to say."

* **SRI R. KRISHNAN** — “സർ, ഭൂമി മാസം പാട്ടുബാക്കി വന്നാൽ കൃഷി കാനറവകിടന്നത് മലബാറിനെ സംബന്ധിച്ചിടത്തോളം ഏറെയും അപകടം പിടിച്ച ഒരു വ്യവസ്ഥയാണ്. ചിങ്ങമാസത്തിലെ കൊയ്ത്തുകഴിഞ്ഞാൽ രണ്ടാമത്തെ കൊയ്ത്തിന്ന മകരമാസമാകും. ഏതെങ്കിലും തരത്തിൽ വിള നഷ്ടപ്പെട്ടാൽ എങ്ങനെയാണ് ഭൂമി മാസത്തിനകം പാട്ടുകൊടുക്കാൻ സാധിക്കുക? ബഹുമാനപ്പെട്ട മന്ത്രിമാക് അതിന്റെ ബുദ്ധിമുട്ട് അറിയാവുന്നതാണ്. അതുകൊണ്ടു ഒരു കൊല്ലമാകണമെന്നാണ് എന്റെ അഭിപ്രായം.

“രണ്ടാമത്ത്, ആറു കൊല്ലം ദൈവശാമിയിലെ വർഷം കഴിഞ്ഞു എന്നു പറയുന്നുണ്ട്. ആറു കൊല്ലം തികഞ്ഞില്ലെങ്കിൽ തന്നെയും ആറു കൊല്ലം വരെ ദൈവശാമിയിൽ ഒരു കൽക്കെട്ട് കഴി

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[Sri R. Krishnan]

പ്പിക്കുന്നത് വളരെ കടുമാണ്. അതുകൊണ്ട് അങ്ങിനെ ഭൂമിപ്പിക്കുകയാണെങ്കിൽ തന്നെയും 5 ഏക്കറങ്കിലും കൈവശം വെച്ചുകൊള്ളാൻ അനുവദിക്കണം. അല്ലെങ്കിൽ കടിയാന്മാർക്കു ഏറെയും സങ്കടകരമാണ്.”

* SRI V. SANKARANARAYANA MENON :—“ സർ, ശ്രീ നാരായണക്കുറുപ്പിന്റെ ഭേദഗതിയോടു ആൻ പരിപൂർണ്ണമായി യോജിക്കുന്നു. കടിയാൻ നിയമത്തിലെ ഏറെയും മുമ്പായി ഭാഗം ഒരു കടിയാന്റെ സ്ഥിരവകാശമാണ്. സ്ഥിരവകാശം കൊടുക്കാത്ത നിയമം കടിയാന്റെ രക്ഷയ്ക്കുള്ള നിയമമല്ല. ഇവിടെ കടിയാന്റെ സ്ഥിരവകാശം ഈ ഭേദഗതികൊണ്ട് ഉണ്ടാകുന്നില്ലെന്നു സമ്മതിച്ചു തീർത്തു. ഈ ബില്ലിന്റെ കരടു പ്രസിദ്ധപ്പെടുത്തിയപ്പോൾ ഒരു കാലാവധിയും ചേർത്തിരുന്നു. പിന്നീടു ഗവണ്മെന്റ് ആറു കൊല്ലമെന്നു കണക്കുവെച്ചു. എന്നാൽ ഇതുകൊണ്ടാണ് കടിയാനു സ്ഥിരമായ ഒരു രക്ഷ കിട്ടാൻ പോകുന്നില്ല. എപ്പോഴും ജന്മിക്കു ആവശ്യമുണ്ടെങ്കിൽ ഭൂമിപ്പിക്കുമെന്നും അതിനു പുറമെ ഇപ്പോഴുള്ള മറ്റൊരാൾക്കു അനുധീനപ്പെടുത്തിയാൽ രണ്ടു കൊല്ലം കഴിഞ്ഞു അയാൾക്കു ഭൂമിപ്പിക്കാമെന്നു വന്നാൽ സ്ഥിരവകാശം എന്നു പറയുന്നതു കേവലം നിരന്തരമാണ്. ഈ ബില്ലിൽ മറ്റൊപ്പൊട്ടത്തെ സംബന്ധിച്ചിടത്തോളം എന്തെല്ലാം വ്യവസ്ഥകളുണ്ടെങ്കിലും സ്ഥിരവകാശം ഇല്ലാത്തിടത്തോളം കാലം കടിയാനു വലിയ രക്ഷ കിട്ടാൻ പോകുന്നില്ല. സ്ഥിരവകാശം കൊടുക്കാൻ ഗവണ്മെന്റു എന്തിനിത്ര വൈമനസ്യം കാണിക്കുന്നു? ഇന്നു പ്രവൃത്തി എടുക്കുന്ന എല്ലാ തുറകളിലുമുള്ള ആളുകൾക്കു സ്ഥിരവകാശമില്ലെ? വ്യവസായങ്ങളിൽ പ്രവൃത്തി എടുക്കുന്നവനു സ്ഥിരവകാശമില്ലെ? ഗവണ്മെന്റ് പ്രവൃത്തിയെടുക്കുന്നവന് സ്ഥിരവകാശമില്ലെ? ഭൂമിയിൽ കൃഷി ചെയ്യുന്ന കൃഷിക്കാരനു മാത്രം സ്ഥിരവകാശം കൊടുക്കുന്നതിന്നു എന്നാണ് ആരക്കുപാ? മുഖ്യമന്ത്രി ഒരു രണ്ടു ആക്ഷേപങ്ങൾ പറയുകയുണ്ടായി. ഒന്നാമതു ചില ക്ഷേത്രം സ്ഥിരവകാശം കൊടുക്കാൻ നിവൃത്തിയില്ലെന്ന്. ഈ കാര്യത്തെപ്പറ്റി ചർച്ച ചെയ്യുമ്പോൾ ഭൂടമകളുടെ പ്രതിനിധികൾ ഈ സഭയിൽ വേണ്ടത്ര ഉണ്ടെന്നാണ് രണ്ടാമത്തെ ചോദ്യം. ഭൂമി നടപ്പുകാരിൽനിന്ന് ജന്മിക്കു ആവശ്യമുണ്ടെങ്കിൽ വിലകൊടുത്തു വാങ്ങണമെന്നാണ് ഞാൻ പറയുന്നത്. കൃഷി ചെയ്തു ജീവികൾക്കുണ്ടെങ്കിൽ ജന്മിത്തത്തിന് വിലകൊടുത്തു വാങ്ങണം. ജന്മിക്കു എപ്പോൾ തിരിച്ചടവുണ്ടെന്നെന്നു പറയുന്നവോ അപ്പോൾ തിരിച്ചുകൊടുക്കാമുള്ള വ്യവസ്ഥ സ്വീകരിച്ചു. മലബാറിലാണെങ്കിൽ നാലു ലക്ഷത്തിലധികം പാട്ടയക്കാരുണ്ട്. ഞാൻ പറയുന്നത് ഒരു പാട്ടിയുടെയും വേലിലല്ല. രാജ്യത്തിന്റെ ക്ഷേമത്തിനുവേണ്ടി പറയുകയാണ്. ജന്മിക്കു ന്യായമായി കൊടുക്കേണ്ടതു കൊടുക്കുകതന്നെ വേണം. രാജ്യത്തിന്റെ ക്ഷേമത്തിനു ഇതെല്ലാം ആവശ്യമാണ്. അതു ചെയ്യാൻ എന്തിനു മടിക്കുന്നു? ഇന്ത്യയിൽ ഏതായാ രാജാക്കന്മാരുടെ സ്ഥാനങ്ങൾ തകരുത് ഇന്ത്യയുടെ ഏകീകരണം സാധിച്ചത് ഒരു പാട്ടിപ്രഭു രണത്തിനുവേണ്ടിയല്ല. അതുപോലെ നാട്ടിലെ അദ്ധ്വാനിക്കുന്ന കൃഷിക്കാരന്റെ രക്ഷയ്ക്കു വേണ്ട വ്യവസ്ഥകൾ സ്വീകരിക്കണമെന്നു അപേക്ഷിച്ചുകൊണ്ട് ഞാൻ അദ്ധ്വാനിപ്പിച്ചുകൊള്ളുന്നു.”

* SRI K. M. SEETHI SAHIB :—“ Sir, I have to explain the amendments that I have given notice of. These amendments relate to sections 14 and 20 of the principal Act. Under sub-sections (5) and (6) of section 14 the landlord has been given the right of evicting the tenant. Sub-section (5) relates to the *bona fide* requirement of the landlord for the cultivation of the land for his own primary needs and the needs of the members of his family. Sub-section (6) relates to the *bona fide* requirement of the landlord to recover possession of the land for the purpose of building a house for his own occupation. Now fixity is proposed to be given to the tenant. Under sub-section (5) the landlord can evict the tenant if he wants the land for his *bona fide* cultivation. He cannot exercise that right now in respect of a tenant who has been in occupation of the land for not less than six years. But sub-section (6) even now stands and enables the landlord to evict any tenant without regard to his period of occupation. Under this sub-section the landlord can evict a tenant for the *bona fide* purpose of putting up a house for

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his own residence. The object of my amendment is that there is no justification for making a distinction between sub-sections (5) and (6) in this respect. Neither under sub-section (5) nor under sub-section (6) should the landlord be entitled to evict a tenant who has been in possession of the land for six years. The very scheme of the Act makes no distinction between sub-sections (5) and (6). Section 40 (2) of the principal Act relating to the melcharthdar makes no distinction between sub-sections (5) and (6) of section 14 or section 20. A melcharthdar cannot exercise the right of eviction under sub-sections (5) and (6) of section 14 and section 20. I hardly find any reason why the Government should make a distinction between sub-sections (5) and (6). I say that sub-section (6) also must be brought within the ambit of the amendments moved by the Government for giving fixity of tenure to the tenant.

“The other point which I have raised is with reference to the denial of the right of eviction to the transferee of the landlord. The landlord is entitled to exercise the right of eviction. While this right may be deemed to be a personal right to him, the transferee should not have this right of eviction for the reasons given by the hon. Member who preceded me. This will be a loophole given to the landlord to circumvent the fixity of tenure given to the tenant by exercising his right of transferring the lands in favour of his own dependants or his own relations and getting the tenant evicted thereby by enabling the transferee to put forward the claim that he wants the land *bona fide* for his primary needs. This right may **not be available** to the landlords or the janmis, in many cases and, in such cases they may transfer the land in favour of their own dependants. So, I have moved for the deletion of the words

‘until the expiry of two years from the date of the instrument.’

The result will be that the transferee does not get the right of evicting the tenant under sub-clauses (5) and (6) of sections 14 and 20.”

* SRI V. R. KRISHNA AYYAR :—“Sir, I have moved my amendment. I shall read the amendments which are self-explanatory. The amendments read thus—

‘After item (3), insert the following as item (4) :—

“(4) after the existing provisos, the following further Provisos and Explanations shall be added, namely :—

‘Provided further that no holding shall be evicted if the tenant or occupant thereof or any part thereof be an educational, charitable, philanthropic or other public institution :

Provided further that no tenant shall be evicted by any person who is a ‘large farmer’, or a ‘non-agriculturist’ on the date of the institution of the proceeding for eviction ;

Provided further that if the tenant, in the event of such eviction, will have in his actual enjoyment either as tenant or otherwise, in all only less than five acres of land, he shall not be evicted from the holding or any part

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thereof; if there are more suits than one for eviction against the same tenant, the landlord who institutes the earlier suit will have preference under this clause in respect of any land held by the tenant in excess of the extent specified above;

Provided further that a landlord who requires any holding *bona fide* for the cultivation of himself or of any member of his family, shall be entitled to evict a tenant who is a large farmer in respect of any excess over the minimum required to make him a "large farmer";

Explanation.—Large farmer with reference to any particular date means any person who being an individual has more than the equivalent of 25 acres of wet land in his actual possession and if a family has in its actual enjoyment more than the equivalent of 60 acres or 5 acres per member (whichever is less) of wet lands;

Explanation.—For the purpose of this section if the context requires it, one acre of wet land shall be treated as the equivalent of three acres of garden land and 10 acres of dry land (forests and mere waste being excluded).

Explanation.—'Non-agriculturist' with reference to a particular date, means a person who has been assessed in any of the two financial years immediately preceding the date of suit to income-tax under the Indian Income-tax Act, 1922 or has, in all, the four half year immediately preceding the date of suit been assessed profession tax on a half-yearly income or more than Rs. 750 derived from a profession other than agriculture under the Madras District Municipalities Act, the Cantonment Act, the Madras Local Boards Act or the Madras Village Panchayats Act or has been assessed to property or house-tax under any of the aforesaid four Acts within the same period where the aggregate annual value of the property or building is not less than Rs. 1,000 as ascertained in the manner prescribed. "

I suppose there cannot be any controversy over the amendments. Suppose there is a school, which is in a leasehold property—If the landlord wants to evict the school from that place, naturally in public interests that school should be protected. Similarly charitable and philanthropic institutions should be protected from the private interests of the landlord. I have moved my amendment only for the purpose of protecting public institutions, although the institutions may only have a lessee's right. It might widely affect the rights of the landlords, but public institutions have to be protected from eviction. My amendment is a very desirable amendment.

"My amendment regarding 'large farmer' or a 'non-agriculturist' is a very wholesome one. Under the existing Act Sthanis are precluded from evicting their tenants. On the same principle large farmers and non-agriculturists must be precluded from evicting their tenants. They are persons who have large extents of land under their cultivation already. Such people are in no need whatever of evicting their tenants. Eviction proceedings should be taboo in their case. Non-agriculturists are big magnates and commercial men, and they derive their income from operations other than agriculture. Such people need not crowd into the land on which there is already enough crowd. There is no need to invite these people to come to the land."

MR. SPEAKER:—"The hon. Member can continue his speech after lunch. The House will now rise for lunch and meet again at 3 p.m."

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(After lunch—3 p.m.)

* MR. SPEAKER :—“ I must tell the House that our progress in regard to this Bill is very slow. We are proceeding at snail's pace. With the co-operation of the House, I want to expedite the passing of this Bill. A large number of amendments have been given notice of. It is better hon. Members confine themselves to one amendment in regard to amendments of similar nature. Further, one hon. Member wants to speak on all amendments. I hope the House will co-operate with me in expediting the disposal of this Bill.”

* SRI V. R. KRISHNA AYYAR :—“ Sir, in the forenoon I was dealing with the question of protection that should be extended to educational, charitable, philanthropic and other public institutions. As I said, it is really non-controversial and very much desirable in public interests that a school which happens to be the occupant should not be evicted even for the default of the manager thereof who may be the tenant—as it is obviously argued—because the persons who will consequently suffer will be the public, namely, the students studying therein. Similarly, if a charitable institution is to suffer by way of eviction on account of the manager thereof committing a default, it will be too serious a consequence to be visited upon the public who are really the beneficiaries. That is why I commend this somewhat innocuous and very desirable provision that no holding should be evicted if the tenant or occupant thereof or any part thereof be an educational, charitable, philanthropic or other public institution.

“ The second provision which I am suggesting is a new concept, if I may say so. That is to say, if a person has a considerable acreage under his own cultivation, i.e., a large farmer or an owner of a large extent of land, or if a person depends for his livelihood upon, or has his source of income from, non-agricultural occupations, such a person should not be allowed to evict a tenant, because there are enough people who are seeking to cultivate the land and there is not space enough for all of them. There is no reason why a non-agriculturist or a person who has a large extent of land already under his cultivation should come into the land. That is covered by another portion of my amendment.

“ Next, I have suggested a very important thing, namely, a holder of less than 5 acres should be immune to eviction. In fact, that is a sentiment which does not at all come from me for the first time. It has been in the air for a long time. The K.P.C.C. Sub-Committee has recommended it. Various other Parties have also suggested the same thing. If less than 5 acres is the optimum extent of a holding immune to eviction, it will help in seeing to it that good farming is promoted because a tenant will have 5 acres under his cultivation and it will also prevent the evils of eviction in a substantial measure. I do not wish to make a long speech on this matter. I am not quite sure how far the Government will be

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convinced by my contentions. Anyway, they are contained in the amendment and I have already explained the salient points. I, therefore, suggest that the House may accept my amendment."

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—" Sir, I have moved the following amendments which stand in my name :—

' For the existing clause 15, substitute the following :—

"15. *Repeal of sections 14 and 20, Madras Act XIV of 1930.*—Sections 14 and 20 of the principal Act shall be repealed and the following section shall be inserted, namely :—

' A landlord possessing less than five acres of land can evict up to five acres of land from a tenant possessing land more than five acres ;

Provided that the total extent of land in the possession of landlord including land to which he becomes entitled for possession after evicting the tenant shall not exceed five acres ;

Provided also the land in the possession of the tenant after eviction shall not be less than five acres. "

' After item (3) of clause 15, add the following item (4) :—

" (4) the following further proviso shall be added, namely :—

' Provided further that any tenant of 'ulkudi', 'protected ulkudi' or 'kudikilappu' who has been evicted from possession of the site of land in his possession from 28th March 1953 shall be restored to possession of the land in question. ' "

Sir, my first amendment expresses that small landlords who are not in possession of lands even up to five acres are entitled to get land evicted up to five acres from big tenants. That disproves the allegation made against the Opposition that we are not allowing landlords to resume personal cultivation.

" My second amendment suggests that an ulkudi tenant who was evicted from his land on or after the 28th March 1953 should be restored possession of the land in question. This is quite different from the amendment moved by my hon. Friend Sri E. T. Kunhan. His amendment suggested that ulkudi tenants who had been evicted from the land since the 15th March 1952 should be restored possession of the land. But my amendment refers to the 28th March 1953, the date on which the present Bill was introduced in its original form. From that day onwards, eviction of ulkudi tenants has been going on. It was stated in the original Bill that three years' notice should be given before evicting an ulkudi tenant. Therefore, the landlords feared that they could not evict any ulkudi tenant for the next three years and they began evicting such tenants forcibly. The amendment which I am suggesting seeks to restore possession of the land to such an ulkudi tenant. I hope that the Government will accept my amendments."

The amendments were duly seconded.

* SRI C. H. KANARAN :—" പറയട്ടെ കൊല്ലം എന്നുള്ളത് ആദ്യ കൊല്ലം എന്നാക്കിയത് തൃക്കിക്കാരുടെ രക്ഷയ്ക്കാണ്, ജന്മിക്ക് സ്ഥാനം ആവശ്യത്തിന് വേണ്ടി കമിപ്പിക്കാൻ പരയുമ്പോൾ കമിപ്പിക്കാനുള്ള സൗകര്യങ്ങൾ ധാരാളം ഉണ്ടാവുകയാണ് ചെയ്യുന്നത്. ഉദാഹരണത്തിന് ധാരാളം അംഗങ്ങളുള്ള ഒരു ജന്മി കടുംബത്തെ എടുക്കാം. അതിൽ ഭാര്യ അംഗത്തിന് കമിപ്പിക്കാനുള്ള അവകാശം ഉണ്ട്. അങ്ങനെ

[Sri C. H. Kanaran]

[9th January 1954]

യാണെങ്കിൽ അനേകം അംഗങ്ങളുള്ള കട്ടംബങ്ങളിൽ എല്ലാ കടിയൊന്നരെയും ഒഴിപ്പിക്കുന്നതിനുള്ള സൗകര്യം വരുന്നതാണ്. അതുകൊണ്ട് ഏതെങ്കിലും കരംശം കൈവശം വിട്ടിട്ടു വെക്കി മാത്രം ഒഴിപ്പിക്കാനുള്ള വ്യവസ്ഥ വെച്ചു. അതുകൊണ്ടാണ് ടി ഏക്കറിൽ ജാസ്സിയുള്ള കൃഷിക്കാരിൽനിന്നു മാത്രമേ ഒഴിപ്പിച്ചെടുക്കാവുന്നതെന്നു ആവശ്യപ്പെടുന്നത്. ജനസംഖ്യ വളരെ വലുതായി വരുന്നതാണ്. കൃഷിക്കാരുടെ കൈപ്പശ വകാശത്തിന്നു സ്ഥിരതയുണ്ടാകാൻ വരുകയാണ്. അതുകൊണ്ട് ടി ഏക്കു എന്നുള്ള വ്യവസ്ഥ വളരെ പ്രധാനമാണ്. അതുകൊണ്ടു മൂന്നുകൊല്ലമോ ഒരു കൊല്ലമോ ആക്കിയാലും ശരി ജാർജ്ജ് ഒഴിപ്പിക്കുമെന്നുള്ള കാര്യത്തോളം കൃഷിക്കാർക്കു രക്ഷയില്ല. അതുകൊണ്ട് അഞ്ചു ഏക്കു എന്നുള്ള വ്യവസ്ഥ സ്ഥിരീകരിക്കേണ്ടതാണ്."

* SRI N. GOPALA MENON :—" Sir, these sections of the Act, namely, sections 14 and 20, are the two sections around which a lot of controversy has raged. I am glad to say that this Bill has received a good reception at the hands, generally, of the vernacular Press in Malabar and I have also received letters from some of my friends saying that the Bill is fairly satisfactory to all of them, in spite of the opposition that may be raised here. Some of the hon. Members have said that one clause in section 14, which says that if the tenant does not pay the rent within three months after the due date, he should be evicted, causes a hardship. But they forget that there is another provision, namely, section 15 (3) which says that even if a suit has been filed for eviction, it is open to the tenant to deposit the rent in Court, in which case there will be no eviction at all.

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p.m.

" Then, another point has been raised regarding the provision that if there is a transfer *inter vivos*, there could be no eviction for two years. The object of this provision is to see that in cases of *mala fide* transfers, the transferee may not be able to resume possession of the land. In every similar measure, much shorter period is provided. For instance, take the Madras Buildings Lease and Rent Control Act where a period of three months is provided. If a person after purchasing a house, wants to take possession of the house and evict the tenant, he gets only three months. Here, in this Bill, the period provided is two years. I, however, want to say that this clause, although it has been considered so often and so long contains certain inherent defects. For instance, in the second proviso to section 20 of the parent Act, it is stated that 'nothing contained in clauses (5) to (7) shall apply to the holding or that portion of the holding which consists of a kudiyiruppu, an ulkudi or a kudikidappu.' There is no provision in the whole enactment whereby an ulkudi-holder could be evicted. He can with immunity deny the landholder's title and prescribe a title to himself by adverse possession. This is an oversight in drafting. The right of the ulkudi-holders has been granted by this legislation. It was not there in the 1951 Act. This is an inherent defect in this enactment, which I hope the Government will somehow or other try to correct. There is also an Explanation under section 14 of the parent Act which says, 'In the case of a landlord governed by a law other than the Marumakkattayam law (or the Aliyasantana law) the wife or husband and the father, mother and children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.' This

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provision was found in the old Act. Under the old law, the wife and child of those landlords governed by the Marumakkattayam law were not considered to be their heirs. But now they have become heirs of the landlord. Still, the definition of family that wife and child shall not be included is still retained. This is another defect which is noticeable and I hope the Government will take steps to correct this also.

“ Under section 20 relating to kanamdars and others, we may say that persons who have been in continuous possession or occupation should not be evicted and they should be given fixity of tenure. These are a few observations which I have to make regarding the purport of these clauses. There has been much discussion regarding these clauses which are not very happily worded.

“ Then, Sir, my hon. Friend Sri Seethi Sahib said that the provision regarding giving fixity of tenure should also be made applicable to sub-section (6) of section 14. That is, no person should get any portion of his own land for the purpose of constructing a building for himself. This was discussed in the Select Committee and it was thought that there may be cases where persons who had left Malabar or other occupations might want to come back to Malabar and spend the evening of their life there. For that purpose, they may require some place to construct a house so that they may live there and die there. That is why a provision has been incorporated that in such cases if the person is actually in need of a building for his residence in his own holding, he could evict the occupant thereof for this *bona fide* purpose. On the whole, I am glad that these two sections have been more or less satisfactorily settled and there is a sort of general agreement that these provisions will satisfy both the landlord and the tenantry of Malabar. The time that has been spent in discussing this Bill would be justified, I think, by the result, viz., that it is fairly satisfactory.”

* DR. K. B. MENON :—“ Mr. Speaker, Sir, the two sections, 14 and 20 are perhaps the most important sections. Talking on these two sections, I am willing to concede that the sections as they stand in the Bill make some liberal concessions, more than the draft Bill of Mr. Madhava Menon which subsequently became the Amending Act of 1951. In this connection, I would like to say that accusations were made that the Opposition is making use of Mr. Madhava Menon in order to condemn the Government now in power. It is not so. If the Government suspect that we want to make political capital of it, they should also know that we in the process are accumulating political liabilities along with it. We know Mr. Madhava Menon is a Congress member and a potential rival at that. We are only interested in giving—if I am not using an unparliamentary expression—the devil its due. That is the only reason why the draft Bill of Madhava Menon was often quoted as better than some aspects of the present Bill.

“ Sir, even while I was talking during the first reading of the Bill, I said that clause (5) of sections 14 and 20 in the parent Act should go. I still stand by it. As long as that clause stands, the very purpose of the Bill will be defeated. I know that it has been

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amended to a very slight degree, but that amendment does not make any substantial concession and is still unsatisfactory, inadequate and it will not work in the best interests of the tenants of Malabar. One must remember that in a place like Malabar where there are so many intermediaries, it is very difficult if any of the intermediaries are allowed to evict a tenant. If the tenant has always to live in dread of being evicted, such evictions in the long run will upset the economic equilibrium of the agricultural community, and the larger interests of the community as a whole. I feel that some amount of security from eviction must be provided to the tenant. In the second place, one must also remember that in Malabar, these intermediaries are absentee-landlords. They are merely rent collectors. The verumpattamdar, who is the last in the ladder has certain rights. It is not fair that these intermediaries are given the right to evict.

“ Finally, I would like to point out that in the case of assignees, under no circumstances, they should be given more privileges than the landlords. As it stands to-day, the assignees have certain preferential rights which will make the position of the tenant very weak and insecure. These are the points that I have to say at this stage.”

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p.m.

* SRI A. APPU :—“ Sir, I had also given notice of an amendment to sections 14 and 20 of the Act but in view of the important announcement made by the Hon. the Chief Minister giving liberal concessions to the tenant and in view of the amendments brought in by the Hon. the Law Minister incorporating those concessions, I did not move it. I do not propose to move that amendment even now. But I must say a few words on the provision which enables transferees to evict tenants after the expiry of two years. Even now there are cases in which some bogus transfers have been made and suits have been filed for eviction of the tenants. I quoted an instance in my speech the other day wherein a tenant, whose family was holding about 150 acres of land completely planted with coconut trees, was sought to be evicted. To avoid such things happening, I submit that that particular clause should be deleted. Mr. Seethi Sahib put forth a very able argument in this behalf and I entirely agree with him. I request that the Government will be pleased to consider the matter sympathetically.

“ Sir, there is a clause which says that a jenmi can evict a tenant on grounds of ‘ primary needs ’. I request that the Government will give an explanation as to what primary needs are. I hope the Hon. the Chief Minister will define what primary needs are. Otherwise, the janmis are likely to raise that point in a court of law and different courts are likely to give different interpretations. Sir, on the whole, I am satisfied with the Bill and I am very thankful to the Chief Minister for all the concessions that he has been pleased to make. He has taken a very lively interest in this measure. I said it in my speech on the Bill during the introduction stage though that was mistranslated by the *Mathrubhoomi* as ‘ lovely interest ’. He has been taking a lively interest and I thank him again.”

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* **SRI. K. MADHAVAN NAMBIAR** :—“ സർ, തിരുവിതാംകൂർ-കൊച്ചിയിൽനിന്നു ലക്ഷക്കണക്കിന് കൃഷിക്കാർ മലബാറിന്റെ കിഴക്കൻ പ്രദേശങ്ങളിൽ ചാർത്തുവാങ്ങി കൃഷി ചെയ്യുവരുന്നുണ്ട്. മിക്കവാറും കഴിഞ്ഞ ആറു കൊല്ലത്തിനുശേഷം വന്നവരാണ്, ആറു കൊല്ലമെന്നു വെണ്ണുകയാണെങ്കിൽ ലക്ഷക്കണക്കിനുള്ള കൃഷിക്കാരെ ഇതുകൊണ്ടു കെട്ടിപ്പിടിക്കുന്നതിനുള്ള സാധ്യതയുണ്ട്. മറ്റൊരു സംഗതി ജീവിക്കാൻ നിയോജിപ്പാത്തവരും വിട്ടുകൊട്ടി താമസിക്കാൻ സ്ഥലമില്ലാത്തവരായ ജന്മിമാർക്കുവേണ്ടി 5 ഏക്കറരെ കെട്ടിപ്പിടിക്കുമെന്നും, അതുകൊണ്ട് 5 ഏക്കറിൽ കൂടുതലുള്ള കൃഷിക്കാരിൽനിന്നു മാത്രമേ കെട്ടിപ്പിടിക്കാൻ പാടുള്ളുവെന്നും വ്യവസ്ഥ ചെയ്യുന്നത് അന്യായശ്രദ്ധയിരിക്കുമെന്നു എനിക്ക് ബലമായ അഭിപ്രായമുണ്ട്.”

* **THE HON. SRI K. P. KUTTIKRISHNAN NAIR** :—“ Sir, I beg to submit that the amendment moved by the Government was decided upon after taking all aspects of the question into account. We have to consider while we scan this amendment, the fact that fixity is given to all tenants and the provision now under discussion relates to cases of exemption when a landlord seeks to evict a tenant. If the landlord *bona fide* wants to have a part of the land to be redeemed for purposes of building a house for himself, when he has no house, it is a case which we have to consider to be as essential as that of the tenant. It is because of this fact that we have given fixity in the case of *ulkudis* where huts exist and where people having no particular interest are now allowed to stay on. The Government are not able to accept the suggestion that they must prescribe a maximum area in terms of acres. I must again bring to the notice of the Members that out of 444,725 pattas, about 430,032 relate to land below six acres in extent. That is why we are finding it very difficult to fix a ceiling in terms of acres in this case. There is also another difficulty because the productive capacity of the soil in Malabar differs from place to place. So, to adopt the basis of acreage is not possible. What we have done now is to see that, if a person has been in occupation of the land for six years, he is prevented from being evicted, under clause 5 for purposes of *bona fide* cultivation. We have narrowed down the scope of the clause in this way. We have narrowed it down in another way also. We have stated that *bona fide* requirements would mean only ‘primary needs’. We have restricted the scope of operation of the clause as much as possible. As I have already said once, Sir, the 1951 Act and this Bill have considered the needs of the tenant only in the matter of eviction and not the needs of the landlord. Until these were taken up, everybody was agreed on the question that a certain acreage of land should be left in the possession of the landlord. But we have now completely changed the outlook and we must view the eviction question from the background of the changed outlook.

“ Sir, most of the points raised by hon. Members have been answered already, mostly by hon. Members themselves. I think I need not take any more time. This is a most difficult problem which we have to solve. We have to solve it without putting others to difficulties and without infringing the provisions of the Constitution. Without violating the Fundamental Rights of the individual, we have to give fixity of tenure to tenants. We have

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considered all these aspects of the question and the amendment of the Government alone is the solution as far as this aspect of the legislation is concerned. I have nothing more to say."

* SRI V. R. KRISHNA AYYAR :—" Sir, I want to know whether the Government are opposed or not to eviction being disallowed in the case of educational and other public institutions. I specifically raised this point and I am not clear about the Government's attitude to this question. I want the Government to clear the doubt."

* SRI M. NARAYANA KURUP :—" I wish to know whether the Government have any reply to the points raised by me. I want to know whether transfers effected through court sales and by the Official Receivers and the Official Assignee, will also be covered by the provision. That point has not been touched upon."

3-30 P.M. * THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Up till now there was no restriction made. Now we have said that within two years he cannot evict the tenant. He cannot take advantage of the clause to evict the tenant. If we say here that the alienee will not get full rights in property, it will bring down price of property in Malabar and also offend the clause pertaining to transfer. So we have gone to the extent to which we can go."

" In this connexion, Sir, I may also add that I must be given the last chance to reply. The hon. Members may make suggestions but I should be given the last chance to reply."

MR. SPEAKER :—" Will Government always have the last word? Hon. Members who have moved amendments have a right of reply. They have said what they wanted to say by way of reply. Then the Hon. Minister has a right of further reply."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" I only request I may not be called twice, thrice or even four times."

SRI V. R. KRISHNA AYYAR :—" If the Hon. Minister has no word to say, he may not be compelled to say the last word."

SRI M. NARAYANA KURUP :—" Sir, it has now been made amply evident that the Government do not intend to cover such transfers."

MR. SPEAKER :—" Under what rule is the hon. Member entitled to speak after the Minister has replied? I have already allowed him the right of reply. But he is speaking again."

SRI M. NARAYANA KURUP :—" Sir, the Hon. the Minister for Law quoted figures and there has been a jugglery in figures. He mentioned that there were four lakhs of pattas in Malabar . . ."

MR. SPEAKER :—" The hon. Member cannot speak on the amendment. I am now going to put the amendments to the vote of the House."

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* THE HON. SRI C. RAJAGOPALACHARI :—“ If you will permit me, Sir, I want to say a few words. I think the Opposition is sometimes arguing against its own case. I shall explain it. The various suggestions made as to acreage and things like that really reduce the case of the tenants a little more than the Government proposals bring it to, because whatever may be the extent of the holding, the Government amendment prohibits the taking over of the land on the ground of requirement for maintenance unless it is for primary needs, even if it be that the landlord has only one acre. This amendment is more in favour of the tenants. So I would advise hon. Members not to press the acreage clause. With regard to the further definition of primary needs, both *bona fide* and primary needs taken together, it restricts the landlords opportunity very greatly. I would, therefore, ask hon. Members not to press their amendments.”

The amendments of Sri P. K. Gopalakrishnan were by leave of the House withdrawn, namely,

‘ (1) For the existing clause, substitute the following :—

“ 15. Repeal of sections 14 and 20, Madras Act XIV of 1930.—Sections 14 and 20 of the principal Act shall be repealed and the following section shall be inserted, namely :—

‘ A landlord possessing less than five acres of land can evict up to five acres of land from a tenant possessing land more than five acres :

Provided that the total extent of land in the possession of landlord including land to which he becomes entitled for possession after evicting the tenant shall not exceed five acres :

Provided also the land in the possession of the tenant after eviction shall not be less than five acres. ’ ”

(2) After item (3) add the following item (4) :—

“ (4) the following further proviso shall be added, namely :—

‘ Provided further that any tenant of “ *ulkudi* ”, “ *protected ulkudi* ” or “ *kudikidappu* ” who has been evicted from possession of the site of land in his possession from 28th March 1953 shall be restored to possession of the land in question. ’ ” ”

MR. SPEAKER :—“ Then comes hon. Member Sri K. P. Gopalan's amendment. The question is—

‘ For the existing clause, substitute the following :—

“ 15. Repeal of sections 14 and 20, Madras Act XIV of 1930.—Sections 14 and 20 of the principal Act shall be repealed. ’ ” ”

The amendment was put and declared lost.

MR. SPEAKER :—“ The question is—

‘ For the existing item (1), substitute the following :—

“ (1) clause (5) shall be omitted; ’ ” ”

The amendment was put and declared lost.

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A poll was demanded and the House divided thus :

Ayes—51.

Sri K. Aranganathan.
 „ T. S. Ardhanari.
 „ V. Gopala Gounder.
 „ P. K. Gopalakrishnan.
 „ K. P. Gopalan.
 „ K. C. Gopalan Unni.
 „ A. Govindaswamy Nayagar.
 „ C. Kandasami.
 „ P. Kandasamy Gounder.
 „ S. Kandaswami Gounder.
 „ C. H. Kanaran.
 „ S. S. Kolkebail.
 „ O. Koran.
 „ V. R. Krishna Ayyar.
 „ R. Krishnan.
 „ E. T. Kunhan.
 „ P. Kunhirama Kidav.
 „ C. Kunhirama Kurup.
 „ K. S. Lakshmiopathy Naicker.
 „ K. Madhavan Nambiar.
 „ M. Manickasundaram.
 Dr. K. B. Menon.
 Sri K. Moidu.
 „ Mookkiah Thevar.
 „ A. Muthuswamy.
 „ K. R. Nallasivam.

Sri M. Narayana Kurup.
 „ M. Narayana Nambiar.
 „ T. C. Narayanan Nambiar.
 „ M. Palaniyandi.
 „ N. K. Palanisami.
 „ S. Radhakrishnan.
 „ E. L. Raghava Mudaliar.
 „ P. B. K. Rajachidambaram.
 „ P. R. Rajagopala Gounder.
 „ K. T. Raju.
 „ K. Ramakrishnan.
 „ S. Ramalingam.
 „ S. S. Ramasamy Padayachi.
 „ P. Rathinaswami Pillai.
 „ K. R. Sambandam.
 „ V. Sankaranarayana Menon.
 „ A. Senapathi Gounder.
 „ K. T. Sreedharan.
 „ M. P. Subramanyam.
 „ S. Swamikannu.
 „ S. Swayamprakasam.
 „ A. Veloo.
 „ C. Velukkan.
 „ P. Venkatesha Sholagar.
 „ K. Vinayakam.

Noes—76.

Sri L. Anandan.
 „ T. Anantha Pai.
 „ A. Appu.
 „ T. S. Ardhanari.
 „ S. Arumugam.
 „ S. R. Arumugam.
 „ V. Arumugam.
 „ K. H. Bomman.
 „ P. Chellathurai.
 „ V. S. Chinnasami Naidu.
 „ Chinnathambi Thevar.
 „ AR. A. RM. Chokalingam Chettiar.
 „ T. P. Elumalai.
 „ T. Ganapathy.
 „ N. Gopala Menon.
 „ G. Govindan.
 „ V. Govindaswamy Naidu.
 „ K. Ishwara.
 „ H. M. Jagannatham.
 „ M. Jagannathan.
 „ T. M. Kaliannan.
 „ M. Kandasamy Padayachi.
 „ P. G. Karuthiruman.
 „ P. S. Krishnasamy Ayyangar.
 „ V. Krishnasamy Padayachi.
 „ R. Krishnaswami Naidu.
 „ R. Kuppuswamy.
 „ K. P. Kuttikrishnan Nair.
 „ S. Lakshmana Gounder.
 „ M. A. Manickavelu Naicker.
 „ P. G. Manickam.
 „ Y. Manjaya Shetty.
 „ A. K. Masilamany Chettiar.
 „ M. S. Mogral.
 „ K. G. Muniswami Gounder.
 „ M. S. Munisamy Pillai.
 „ V. Muthu.
 „ M. C. Muthukumaraswamy.
 „ B. K. Nallaswami.

Sri G. Narayanaswami Naidu.
 „ L. Ch. Pais.
 „ R. M. Palaniappan.
 „ V. C. Palanisami Gounder.
 „ S. Panchaksharam.
 „ K. Parthasarathy.
 „ N. Rajagopal.
 „ C. Rajam Ramasami.
 „ K. Rajaram.
 „ T. K. Rama.
 „ M. R. Ramachandran.
 „ A. Ramachandra Reddiar.
 „ N. Ramakrishna Ayyar.
 „ V. K. Ramaswamy Mudaliar.
 „ S. Ramaswamy Naidu.
 „ A. Ramasamy Tevar.
 „ A. Ramasundara Karunalaya Pandian.
 „ E. K. Sankara Varma Raja.
 „ P. Selvaraj.
 „ M. G. Shanker.
 „ A. B. Shetty.
 „ K. Shunmugam.
 „ V. S. Sivaprakasam.
 „ Somasundara Gounder.
 „ A. S. Subbaraj.
 „ C. Subramaniam.
 „ I. K. Subramania Pillay.
 „ M. Subramania Nayakar.
 „ R. Thangavelu.
 „ M. D. Thiagaraja Pillai.
 „ S. Thinakarasaami Thevar.
 „ P. K. Thirumurthi.
 „ G. Vagheesam Pillav.
 „ O. Venkatasubba Reddi.
 „ K. Venkatramana Gowda.
 „ K. Venkataswamy Naidu.
 „ S. C. Virupakshiah.

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Neutral—3.

Sri K. M. Seethi Sahib.
„ Kunhi Mohamed Shafee.

Sri M. Chadayan.

Ayes—51; Noes—76; Neutral—3.

The amendment was lost.

MR. SPEAKER :—“ Is the hon. Member Narayana Kurup pressing the other amendment? ”

SRI M. NARAYANA KURUP :—“ Yes, Sir.”

MR. SPEAKER :—“ The question is—

‘ *Re-number* the proposed Exception under clause (5) as Exception No. 1, and *insert* the following as Exception No. 2 :—

“ *Exception No. 2.*—In case of any other holding in the occupation of a tenant it shall apply only to that part of the holding in excess of lands assessed to or assessable to Rs. 50 per annum ”. ”

The amendment was put and lost.

MR. SPEAKER :—“ Is the hon. Member pressing the other part of the amendment? ”

SRI M. NARAYANA KURUP :—“ I am not pressing it, Sir.”

The amendment, i.e.,

“ In the proposed new clause (iii) to the second proviso ,

(i) *after* the words ‘ *inter vivos* ’, *insert* the words ‘ *either voluntary or involuntary* ’ ; and

(ii) *for* the words ‘ *two years* ’, *substitute* the words ‘ *twelve years* ’. ”
was by leave of the House, withdrawn.

MR. SPEAKER :—“ I will now put the amendment of hon. Member Sri V. R. Krishna Ayyar to the vote of the House. The question is—

‘ *Add* at the end of the Explanation the words “ of food, shelter and clothing ”. ’ ”

The amendment was put and lost.

MR. SPEAKER :—“ Then comes the amendment of Sri T. C. Narayanan Nambiar. Is he pressing the amendment? ”

SRI T. C. NARAYANAN NAMBIAR :—“ I am not pressing the first part, Sir. The latter part of it may be put to the vote of the House.”

MR. SPEAKER :—“ The question is—

Omit items (1), (2) and (4) of sections 14 and 20 of the principal Act.

In item (3) of section 14 of the principal Act *for* the word “ *three months* ” *substitute* the words “ *one year* ”.

[Mr. Speaker]

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Add the following proviso to that item :—

“ provided that if the tenant in the event of eviction under items (5), (6) or (7) will have in actual enjoyment either as tenant or otherwise in all only five or less than five acres of wet land he shall not be evicted from the holding and if he has more than five acres of wet land only the excess shall be available for eviction and in no case shall the landlord be entitled to claim eviction under the afore-said clause if he has already in his actual cultivation an extent of five acres of land.

Explanation.—One acre of land is equal to two acres of garden land and three acres of dry land ” ” ”

SRI T. C. NARAYANAN NAMBIAR :—“ Withdraw this part of my motion.”

The amendment was by leave withdrawn.

MR. SPEAKER :—“ The question is—

‘ In item (3) (ii) of clause 15, in the proposed clause (iii) for the words “ two years ”, *substitute* the words “ six years ” ”

The amendment was put and lost.

Then amendment of Sri V. R. Krishna Ayyar for insertion of new clause (4) was put and lost.

MR. SPEAKER :—“ Now I am going to put the amendment of Sri K. M. Seethi Sahib to the vote of the House.

The question is—

‘ (i) *Omit* the exception under item (1).

(ii) *After* item (2), *insert* the following as item (2A) :—

“ (2A) after clause (6), the following shall be added, namely :—

‘ *Exception.*—Nothing in sub-clauses (5) and (6) shall apply to any holding which has been in the continuous occupation of the tenant or any member of his tarwad, tavashi, ilom, kutumba, kavaru or family for not less than twelve years ”.

(iii) In item (3) (ii) in the proposed clause (iii), *omit* the words “ until the expiry of two years from the date of the instrument ” ”.

The amendment was put and lost.

MR. SPEAKER :—“ Now I will put the Government amendment to the vote of the House. The question is—

‘ For the existing clause, *substitute* the following :—

“ 15. *Amendment of sections 14 and 20, Madras Act XIV of 1930.*—In sections 14 and 20 of the principal Act—

‘ (1) after clause (5), the following shall be added, namely :—

“ *Explanation.*—In considering requirements for maintenance, regard shall be had only to primary needs.”

(2) in clause (6), the word “ *bona fide* ” occurring between the word “ thereof ” and the words “ for the purpose ” shall be omitted and between the words “ a building ” and the words “ for his own residence ” the word “ *bona fide* ” shall be inserted.

9th January 1954] [Mr. Speaker]

(3) In the second proviso—

(i) in clause (ii), for the words “ an ulkudi ”, the “ a protected ulkudi ” shall be substituted;

(ii) after clause (ii), the following shall be added as clause (iii), namely:—

“ (iii) no person whose right to evict arises under an instrument of transfer *inter vivos* shall be entitled to sue for eviction on the ground specified in clause (5) or clause (6) until the expiry of two years from the date of the instrument.”

(4) In section 14 of the principal Act, after the Explanation to clause (5), add the following:—

“ *Exception.*—Nothing in this clause shall apply to any holding which has been in the continuous occupation of the tenant or of any member of his tarwad, favazhi, illoom, kutumba, kavaru or family for not less than six years.”

The amendment was put and carried.

Clause 15 as amended was then put and carried.

Clause 16.

THE HON. SRI K. P. KUTTIKRISHNAN NAIR:—“ I move that—

‘ *The clause be omitted.* ’ ”

MR. SPEAKER:—“ Hon. Members from the other side also have given notice of amendments to omit the clause. Therefore I think it is not necessary to allow a discussion on this. I will put the amendment to the vote of the House.”

The amendment was put and carried.

Clause 18.

MR. SPEAKER:—“ I want to make the position clear to hon. Members. I will put clause 18 to the vote of the House now. Then I will take up all the new clauses referred to in amendments 76, 77, 78 and so on.”

Clause 18 was put and carried.

New clause after clause 18.

* SRI T. C. NARAYANAN NAMBIAR:—“ Sir, I move the amendments standing in my name—

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‘ In sub-section (2) of section 29 of the principal Act, omit the words “ to the extent such rent . . . tax in equal shares ”.

In the first proviso to sub-section (3), for the words “ borne wholly by the tenant ”, substitute the words “ in equal shares by the tenant as well as by the landlord ” and after the word “ labour ”, insert the words “ the increased portion of ”.

[Sri T. C. Narayanan Nambiar] [9th January 1954]

For the existing section 29-B of the principal Act, substitute the following:—

" 29-B. Whenever for any reason the whole or any part of the crop or any yields have failed the tenant shall be entitled to get rent remitted by the Rent Fixation Authority on an application by the tenant for the period concerned.

The State Government on report from the Rent Fixation Authority and on request from the pattadar shall remit the whole or any part of the assessment payable in respect of the land for which remission of the rent has been made by the Rent Fixation Authority."

Retain the provisos under section 29-B.

(i) In section 32-B of the principal Act, for the words " twenty times ", substitute the words " ten times ".

In the first proviso, for the words " one month ", substitute the words " six months ".

In the second proviso, for the words " on condition that sufficient security is furnished by the tenant ", substitute the words " the security for the regular payment of such instalments being the tenant's right on the holding ".

(ii) In section 33 for the words " consecutive ten years ", substitute the words " consecutive three years ".

In the proviso, for the words " on condition . . . of such instalments ", substitute the words " the security for the regular payment of such instalment being the tenant's right on the holding ".

Add the following Explanation—

" Explanation.—Any tenant who had kudiyruppu right over a holding for three consecutive years after September 1940, although the right had been changed into ' Kooli sheet ' or any such document denying the kudiyruppu right of the tenant, that holding will be treated as kudiyruppu and shall be restored as though no such document to the contrary had been made ".

(iii) Omit section 34.' "

* SRI C. H. KANARAN :—" സാർ, ഞാൻ ഈ ഭേദഗതികളെ പിന്തുടരുന്നു. ആക്ടിലെ 29-B സെക്ഷൻ ഞാൻ ഒരു ഭേദഗതി അയച്ചിട്ടുണ്ട്. ഇന്നുള്ള നിയമ പ്രകാരം കൃഷിക്കാർ കൃഷിനാശം വന്നുകഴിഞ്ഞാൽ നികുതി വിട്ടുകൊടുത്താൽ മാത്രമേ പാട്ടം വിട്ടുകൊടുക്കുകയുള്ളൂ. വെള്ളപ്പൊക്കം മൂലം കൃഷി ധാരാളം നശിച്ചുപോയിട്ടും ഗവണ്മെന്റ് നികുതി ഇളവു കൊടുത്തിട്ടില്ല. അതുകൊണ്ട് നിയമപ്രകാരം പാട്ടം വിട്ടു കൊടുക്കാൻ ജമ്മിനാർ നിർബന്ധിതരല്ല. ഗവണ്മെന്റാണെങ്കിൽ നികുതി വിട്ടു കൊടുക്കാൻ തീരെ മനസ്സില്ലാത്തവരാണ്. വില്ലേജ് ഉദ്യോഗസ്ഥന്മാർ ജമ്മി തറവാടുകൾ ഉള്ളവരാണ്. അല്ലെങ്കിൽ അവർക്കു അനുകൂലമാണ്. ജമ്മിമാരെ കരുതി നികുതി വിട്ടു കൊടുക്കണമെന്ന് അവർ ഗവണ്മെന്റിനോടു പറയുകയില്ല. നികുതിയും പാട്ടവും വിട്ടു കിട്ടാൻ സൗകര്യം വേണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ഈ ഭേദഗതി ഞാൻ കൊണ്ടുവന്നിട്ടുള്ളത്. "

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MR. SPEAKER :—" The amendments are now before the House for discussion."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I have nothing to say. I oppose the amendments."

MR. SPEAKER :—" For the sake of convenience, I am going to put all the amendments together to the vote of the House even though it is not a proper method. The question is—

' In sub-section (2) of section 29 of the principal Act, omit the words " to the extent such rent . . . tax in equal shares ".

In the first proviso to sub-section (3), for the words " borne wholly by the tenant ", substitute the words " in equal shares by the tenant as well as by the landlord " and after the word " labour ", insert the words " the increased portion of ".

For the existing section 29-B of the principal Act, substitute the following :—

" 29-B. Whenever for any reason the whole or any part of the crop or any yields have failed the tenant shall be entitled to get rent remitted by the Rent Fixation Authority on an application by the tenant for the period concerned.

The State Government on report from the Rent Fixation Authority and on request from the pattadar shall remit the whole or any part of the assessment payable in respect of the land for which remission of the rent has been made by the Rent Fixation Authority."

Retain the provisos under section 29-B.

(i) In section 32-B of the principal Act, for the words " twenty times ", substitute the words " ten times ".

In the first proviso, for the words " one month ", substitute the words " six months ".

In the second proviso, for the words " on condition that sufficient security is furnished by the tenant " substitute the words " the security for the regular payment of such instalments being the tenant's right on the holding ".

(ii) In section 33, for the words " consecutive ten years ", substitute the words " consecutive three years ".

In the proviso, for the words " on condition . . . of such instalments ", substitute the words " the security for the regular payment of such instalment being the tenant's right on the holding ".

Add the following Explanation :—

" *Explanation.*—Any tenant who had kudiyruppu right over a holding for three consecutive years after September 1940, although the right had been changed into " Kooli sheet " or any such document denying the kudiyruppu right of the tenant, that holding will be treated as kudiyruppu and shall be restored as though no such document to the contrary had been made."

(iii) Omit section 34."

The amendments were put and lost.

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Clause 19.

MR. SPEAKER :—" The hon. Members, Messrs. Moidu, M. Narayana Nambiar, Kunhirama Kidav, Velukkan and others have given notice of an amendment. It is only a consequential amendment. I think, the House has already given its verdict against a similar amendment to clause 13. This amendment is not therefore in order."

SRI M. NARAYANA NAMBIAR :—" I am not moving it."

MR. SPEAKER :—" Is the hon. Member, Mr. T. C. Narayanan Nambiar, moving his amendment? "

SRI T. C. NARAYANAN NAMBIAR :—" Yes, Sir, I am moving the amendment. I move—

' For the existing clause, substitute the following :—

" Amendment of section 35, Madras Act XIV of 1930.
—In section 35 of the principal Act, the words ' and in constructing the new hut ' shall be added at the end."

Sir, in the existing clause only expenses to be incurred in shifting the site are taken into consideration. The expenses to be incurred in constructing a new hut are not taken into consideration. My amendment provides for such a thing. It is a reasonable amendment and I hope the Government will accept it."

SRI C. H. KANARAN :—" I second the amendment."

MR. SPEAKER :—" Amendment moved—

' For the existing clause, substitute the following :—

" Amendment of section 35, Madras Act XIV of 1930.—In section 35 of the principal Act, the words ' and in constructing the new hut ' shall be added at the end."

" The amendment is now before the House for discussion."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" I oppose the amendment because the Government have now conferred on the ulkudidars more benefits than were even contemplated in the previous Act."

MR. SPEAKER :—" The question is—

' For the existing clause, substitute the following :—

" Amendment of section 35, Madras Act XIV of 1930.
—In section 35 of the principal Act, the words ' and in constructing the new hut ' shall be added at the end."

The amendment was put and declared lost.

Clause 19 was put and carried.

Clause 20.

Clause 20 was put and carried.

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New clause 20-A.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move—

‘ After clause 20, insert the following as new clause 20-A :—

“ 20-A. Amendment of section 51, Madras Act XIV of 1930.—In section 51 of the principal Act—

(a) in sub-section (1)—

(i) for the words ‘ every month ’, the words ‘ in the months of January, April, July and October every year ’ shall be substituted;

(ii) for the words ‘ current market price ’, the words ‘ the average market price during the immediately preceding three months ’ shall be substituted;

(b) For sub-section (2), the following sub-section shall be substituted, namely :—

‘ (2) Where, for the payment of rent or michavaram by a tenant to whom the provisions of this Act apply, the cash value of any of the crops referred to in sub-section (1) has to be determined, such value shall be determined at the market price at the taluk headquarters last published under sub-section (1) before the date when such rent or michavaram became payable.’ ”

Sir, the Government have brought this amendment because there were complaints that though the price of the produce had to be declared every month by the Collector, it was not declared for months together, with the result the tenant was put to difficulties and he was compelled to pay a price which the landlord asked him to pay. It was also represented to the Government that different prices were fixed in different courts by adopting different methods. It is in pursuance of the above considerations, the Government have brought this amendment. I am sure, no hon. Member will oppose this amendment.”

* SRI M. NARAYANA KURUP :—“ Mr. Speaker, Sir, this is not at all an improvement on the existing provision and it carries no sense. As it is, to-day the Collector has to notify and publish the paddy price every month. The prices are published in the papers also. We have, therefore, some tangible evidence now to produce before the Collector that there is some discrepancy in the notification made by him. Now, what is attempted here is that the notifications are to be made once in three months. We are unable, Sir, without statistics to verify the notifications. If the Collector notifies the average price of paddy for the first quarter of the year, he will not notify that in January the price was so much, in February the price was so much, etc. If, due to some reason, the Collector notifies a wrong figure it is impossible for us to verify it. It will be more difficult for verification than it is now.”

“ There is also another point. The rents to be paid by the tenants are governed by the price notified when the rents are due.

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[Sri M. Narayana Kurup] [9th January 1954]

Now, it may so happen that the notification made by the Collector when the rents are due may relate to the three months previous to the month when the rents are due. Thus the tenant will be affected.

"Therefore, my objections are two-fold. It is not possible to verify the notification made by the Collector if he publishes merely the average price once in three months and secondly this section does not say that the notified price that is to be taken into account is that which relates to the month in which the rents are due. I do not question the intention of the Government, Sir, but this section does not help us in carrying out their intention. Of course, we can personally represent to the Collector. I think some improvement is necessary in regard to the notification of prices, but from what the Hon. the Minister for Law has said, and though I tried my best to understand it, I can say this is no improvement. We wanted some change but this is not the change which will help us. This is all my complaint, Sir."

* SRI R. KRISHNAN :—"Mr. Speaker, Sir, I beg to move the amendment standing in my name—

'That at the end of section 46 of the principal Act, the following be added :—

"Notwithstanding anything mentioned in any lease the tenant shall pay rent measured in Palghat para or Macleode seer."

"സർ, പാലക്കാട് തലൂക്കിൽ പലതരത്തിലുള്ള പാട്ടപ്പറകളും ഉപയോഗിച്ചു വരുന്നുണ്ട്. ഗവർണ്മെന്റ് അംഗീകരിച്ചിട്ടുള്ള മുദ്രപ്പറയ്ക്കു പാട്ടം അളന്നാലും പറവാശി എന്ന പേരിലും മറ്റും കൂടുതൽ എടുക്കുന്നുണ്ട്. അതനുവദിച്ചുകൊണ്ട് കോടതികളിൽ വിധിപട്ടം ഉണ്ടായിട്ടുണ്ട്. അതിനെ തടയാൻ വേണ്ടിയാണ് ഞാൻ ഈ ഭേദഗതി കൊണ്ടുവന്നിരിക്കുന്നത്."

*SRI K. MADHAVAN NAMBIAR :—"സർ, വടക്കെ മലബാറിൽ ചറകളുടേയും ഇടത്തൂരികളുടേയും ഗുൽമാൽ വളരെയുണ്ട്. അന്നപ്പറ, അഞ്ചാന്നപ്പറ, കല്യാണിപ്പറ ഇങ്ങനെ പല ഗുൽമാൽപറകളുമുണ്ട്. മാത്രമല്ല, കോട്ടയം സേർ, കോട്ടയം പാരസേർ, മുദ്രസേർ എന്നിങ്ങനെ ഒരു വ്യവസ്ഥയുണ്ടില്ലാത്ത അളവുകളുണ്ട് അതെല്ലാം നിറുത്തണം. പകരം ക്രമീകരിച്ച ഒരു ഗവർണ്മെന്റ് നട്ടപ്പിൽ വരുത്തണം. അങ്ങനെയ്ക്ക് വലിയ കൗപ്പമുണ്ട്. I second the amendment"

* SRI T. C. NARAYANAN NAMBIAR :—"Mr. Speaker, Sir, I beg to move the amendments standing in my name, namely—

'In sub-section (1) (a) of section 43 of the principal Act, for the words "one year", substitute the words "two years" wherever they occur.'

'In sub-section (2) of section 51 of the principal Act, omit the word "paddy".'

'Insert the following as sub-section (3) :—

"(3) Where any rent of a wet land has to be converted into money, paddy shall be valued for the purpose of determining the sum due at the average market price of the previous five years published under sub-section (1) "."

The amendment was duly seconded.

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MR. SPEAKER :—“ Motion moved—

‘ That at the end of section 46 of the principal Act, the following be added :—

“ Notwithstanding anything mentioned in any lease the tenant shall pay rent measured in Palghat para or Macleode seer.” ’

* MR. SPEAKER :—“ Motion moved—

‘ In sub-section (1) (a) of section 43 of the principal Act, for the words “ one year ” substitute the words “ two years ” wherever they occur.’

‘ In sub-section (2) of section 51 of the principal Act, omit the word “ paddy ”.

‘ Insert the following as sub-section (3) :—

“ (3) Where any rent of a wet land has to be converted into money, paddy shall be valued for the purposes of determining the sum due at the average market price of the previous five years published under sub-section (1) ”.

* SRI T. C. NARAYANAN NAMBIAR :—“ Mr. Speaker, Sir, my amendment to sub-section (1) (a) of section 43 of the principal Act, namely, the substitution of two years for one year is a very important one in the sense that it extends the time by another year within which a tenant can institute proceedings to get back the holding from which he has been evicted by the landlord under sub-section (5) of section 14 of the principal Act. A doubt may arise whether this amendment would not be more in favour of the landlords than in favour of the tenants. My contention is that the poor tenant may not be in a position to file a suit within the stipulated time and hence he may have to lose his right to get the holding restored to him. I have, therefore, suggested this amendment.

“ My second amendment is to the effect that the word ‘ paddy ’ should be omitted from the items given in sub-section (2) of section 51 of the principal Act for which the prices are to be fixed by the Collector and that paddy should be treated separately. In so fixing the price of paddy, the average price of the previous five years should be taken into account. It is only for this purpose I have moved my second amendment.”

SRI P. K. GOPALAKRISHNAN :—“ Mr. Speaker, Sir, one of the biggest agitation that is going on in Malabar is in regard to the fixing of the price of varam paddy, that is, the price of paddy to be given as rent. The Collector fixes the price arbitrarily and at times it goes up to Rs. 5 per para. At the time of decontrol the price of paddy per para was only Rs. 2. The Collector now fixes the price arbitrarily at Rs. 4-8-0 or Rs. 5 and usually the courts also accept it in their decrees. Therefore a tenant who was paying Rs. 200 as rent for 100 paras at Rs. 2 per para at the time of decontrol has now to pay Rs. 500 which is an increase by 250 per cent over what he was paying. A great agitation is therefore going on amongst all classes of tenants in Malabar to fix the price

[Sri P. K. Gopalakrishnan] [9th January 1954]

of paddy at the controlled rate. Now, the suggestion made by hon. Member, Sri T. C. Narayanan Nambiar, is that the price of paddy should be fixed as the average price of the last five years. I hope the Government will accept this amendment. If the price of paddy during the last five years is taken into consideration, the average price may be taken as the price of varam paddy."

* SRI V. R. KRISHNA AYYAR :—" Sir, I wish to associate myself wholeheartedly with what has already been said on the point. The 1929 Act provided for fixing the price as the average of the last five years. Therefore, what is now asked for is nothing new nor is there anything alarming or disquieting about it for the Government to accept it. It is only a very moderate demand for restoring the rights of the tenants under the 1929 Act, namely, that they may not be called upon to pay the present very high prices prevailing but may be called upon to pay the average price of the last five years. I submit that this is a particularly moderate demand because the tenants are suffering on account of the notified prices of the Collector being very high. In fact, the prices of foodstuffs in the rest of the districts in the State compare favourably with that of Malabar. If only we look into the notifications made every month, the prices prevailing in the various taluks of Malabar are so high that the tenant's back is broken. I submit that the tenant's position has to be considered and that could be achieved only by taking the average of the last five years into account."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I have to oppose the amendment for substituting two years for one year. I feel, Sir, the tenant will be at a loss. He will be delayed by one year in getting back possession of the property. This aspect was considered and that is why one year was fixed."

" Regarding the question of taking into account the five years' average price, I think, it will work as a hardship because this is to be applied only in cases where value has to be paid under the Improvements Act. The current price is cheaper and better for the tenant and I therefore oppose this amendment."

4-10
P.m.

MR. SPEAKER :—" The question is—

' Add at the end of section 46 of the principal Act, the following :—

" Notwithstanding anything mentioned in any lease the tenant shall pay rent measured in Palghat para or Macleode seer." "

The amendment was put and lost.

MR. SPEAKER :—" The question is—

' In sub-section (1) (a) of section 43 of the principal Act for the words " one year ", substitute the words " two years ", wherever they occur.' "

The amendment was put and lost.

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MR. SPEAKER :—“ The question is—

‘ In sub-section (2) of section 51 of the principal Act, omit the word “ paddy ”.

‘ Insert the following as sub-section (3) :—

“(3) Where any rent of a wet land has to be converted into money, paddy shall be valued for the purpose of determining the sum due at the average market price of the previous five years published under sub-section (1).” ’

The amendment was put and lost.

MR. SPEAKER :—“ The question is—

‘ After clause 20, insert the following as new clause 20-A :—

“ 20-A. Amendment of section 51, Madras Act XIV of 1930.—In section 51 of the principal Act—

(a) in sub-section (1)—

(i) for the words ‘ every month ’, the words ‘ in the months of January, April, July and October every year ’, shall be substituted;

(ii) for the words ‘ current market price ’, the words ‘ the average market price during the immediately preceding three months ’, shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) Where, for the payment of rent or michavaram by a tenant to whom the provisions of this Act apply, the cash value of any of the crops referred to in sub-section (1) has to be determined, such value shall be determined at the market price at the taluk headquarters last published under sub-section (1) before the date when such rent or michavaram became payable.” ’

The motion was put and carried.

Clause 21.

SRI P. K. GOPALAKRISHNAN :—“ Mr. Speaker, Sir, Clause 21 provides for the repeal of section 52-A of the principal Act and the Government have introduced a new section—section 11 to the principal Act—under clause 14 of the Bill in the place of section 52-A of the principal Act. Section 52-A of the principal Act deals with the right of tenants to prove before the Rent Settlement Authority whether a transaction is a mortgage or a tenancy. A part of this section has been incorporated in the new section—section 11—but the important part of section 52-A has been omitted. The proviso to section 52-A of the principal Act states that if it is found that the mortgage amount in South Malabar is less than sixty per cent of the value of the janmi's rights in the holding and in other places less than 40 per cent, the Rent Settlement Authority shall, until the contrary is proved, presume that the transaction is not one of mortgage. I want to know from the Hon. the Chief Minister why the Government do not want to incorporate this very important proviso.”

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THE HON. SRI C. RAJAGOPALACHARI:—“ We have already discussed that question and we are now on a different clause.”

* SRI T. C. NARAYANAN NAMBIAR :—“ The hon. Member Sri P. K. Gopalakrishnan referring to the proviso to section 52-A wanted to know only why the powers conferred on Rent Courts to decide whether a deed is a mortgage or tenancy have been taken away. The Rent Courts decide whether a deed is a mortgage or tenancy and if the latter is proved, fixity of tenure is given to the tenants. The hon. Member referred only to this aspect of the matter and not to the ratio 60 : 40 per cent on which basis the Rent Courts decide whether a deed is a mortgage or a tenancy.”

Clause 21 was put and carried.

New clause after clause 21.

* SRI T. C. NARAYANAN NAMBIAR :—“ I beg to move—
‘ For sub-section (1) of section 52-B, substitute the following :—

“ (1) *The rent-fixing authority shall on application from any person desiring to cultivate any waste land or forest land require by order, the landlord of such land to lease it for agricultural purposes to such person within such time as may be specified in the order in tenancy terms.*”

Retain the proviso under sub-section (1).

In sub-section (2) of section 52-B, omit the words “ or officer ” and for the word “ may ” substitute the word “ shall ”.

“ My amendment is a very important one. Every hon. Member is aware of the fact that the district of Malabar is deficit in food. Some hon. Members even call my district as a liability on the State, in the sense that the Government have to spend a large sum of money for supplying food to the people of that district. There are lakhs and lakhs of acres of cultivable land remaining uncultivated. Unlike the Andhra State or the remaining districts of this State, the cultivable waste lands in the district of Malabar belong to private parties and not to the Government. These private owners of waste lands are not willing to lease these lands to poor cultivators for cultivation purposes. Under section 52-B of the principal Act, the State Government or such officer as they may authorise in this behalf may, by order, require the landlord of any waste land to lease it for agricultural purposes. It is in that connection that I have given the amendment and my amendment lays down that the rent-fixing authority shall on application from any person desiring to cultivate any waste land require the landlord of such land to lease it for agricultural purposes. It is a very important amendment. Even now I have got several telegrams and memoranda that landlords are not allowing the poor tenants to cultivate their lands. Realising the importance of the matter,

at least as far as the food deficiency in the district of Malabar is concerned, I would request the Hon. the Chief Minister to give attention to this matter."

MR. SPEAKER :—“ Motion moved—

“(1) The rent-fixing authority shall on application from any person desiring to cultivate any waste land or forest land require by order, the landlord of such land to lease it for agricultural purposes to such person within such time as may be specified in the order in tenancy terms.”

In sub-section (2) of section 52-B, *omit* the words " or officer " and *for* the word " may ", *substitute* the word " shall ". "

* SRI V. R. KRISHNA AYYAR :—“ Mr. Speaker, Sir, under section 52-B of the existing Act, the State Government or such officer as they may authorise may require the landlord of any waste or forest land to lease it for agricultural purposes to such person, for such term, subject to such conditions and within such time as may be specified in the order. Although the Malabar Tenancy Act, 1951, came into force on the 15th of March 1952 and though two years have nearly elapsed, no officer has been authorised by the Government to exercise the powers under section 52-B. In the book called ‘ Five Years’ Achievements ’ regarding the district of Malabar, it is stated that the extent of cultivable waste land available is about 18 lakhs of acres. In an answer to a question in the earlier days of the Assembly, the Hon. the Revenue Minister was pleased to say that there are five to six lakhs of acres of cultivable land. Whether the extent of cultivable land is five or six or eighteen lakhs of acres, it is immaterial. The fact is there that there is an enormous extent of waste land available for cultivation purposes. Malabar is a deficit district and more and more food production should be encouraged. Instead, there has been inordinate and inexplicable delay in the matter and the Government is indifferent to promotion of cultivation of waste lands. Not an acre of waste land has been brought under cultivation. The amendment proposed seeks to create a machinery, namely, a Rent Court to whom a willing cultivator may make an application and the Rent Court may straightaway consider the application. A machinery is absolutely essential for the purpose of carrying out section 52-B and the purpose of the amendment is only to create that machinery.”

* SRI C. H. KANARAN :—“ സർ, ഈ ഭേദഗതികളെ പറ്റിയ കാരണം, മലബാറിൽ തരിശു ഭൂമികൾ ഇല്ലാത്തതു കൃഷി ചെയ്യാനിരിക്കുന്നത്; ഇന്നത്തെ നിയമം കൊണ്ടു യാതൊരു തരിശുഭൂമിയും കൃഷി ചെയ്യാൻ സാദ്ധ്യമായിട്ടില്ല. കൃഷിക്കു വായ്പ തരിശുഭൂമികൾ ഗവണ്മെന്റ് കൊടുത്തു കിട്ടും. നിത്യസമ്പാദ്യം-കെഷിവിൽ നിന്നു ധാരാളം ആളുകൾ മലബാറിന്റെ കിഴക്കൻ പ്രദേശങ്ങളിലേയ്ക്ക് വന്നുകൊണ്ടിരിക്കുന്നു.

[Sri C. H. Kanaran] [9th January 1954]

കുന്നു. മലബാറിൽ കുറെ ലക്ഷം ഏക്കർ ഭൂമി തരിശായി കിടപ്പുണ്ട്. ഈ അസംസ്കൃത ഭൂമി മുന്പിൽത്തന്നെ തരിച്ച ഭൂമികളെപ്പോലെ പ്ലാൻ ചെയ്യാൻ വന്നിട്ടുണ്ട്. അതിനെ കുറിച്ച് ആലോചിക്കുന്നുണ്ടെന്നു പറയുന്നതല്ലാതെ ഇതേപ്രകാരം എന്തെങ്കിലും നിശ്ചിതമായി ചെയ്യാമെന്നു പറഞ്ഞിട്ടില്ല. മലബാറിലെ ജനങ്ങളുടെ പിട്ടിണി കരെയെങ്കിലും തീരണമെങ്കിൽ ഈ ദേശഗതി സഹിക്കണം. കൃഷിചെയ്യാനാഗ്രഹിക്കുന്ന കൃഷിക്കാർ ഭൂമി കിട്ടണമെന്നുള്ളതാണ് ഈ ദേശഗതിയുടെ ഉദ്ദേശം. കൃഷിക്കാർ കൃഷി ചെയ്യാൻ സാധിക്കണം. ജനങ്ങളുടെ പട്ടിണി തീരണമെന്നുള്ള ആഗ്രഹം ഗവണ്മെന്റിനുള്ളിൽ ഈ ദേശഗതി സഹിക്കുന്നു. ഇതു സഹിക്കുമെന്നാണ് എന്റെ വിചാരം."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, there is already section 52-B of the original Act. We are taking steps to see that the lands are distributed. Necessary action is being taken in that regard. Regarding the appointment of a machinery, viz., a Rent Fixation Authority, I do not think it will be able to function properly. We have to appoint a Special Officer. All these things are under the active consideration of Government. It was held up because of the impending Bill. But as soon as we pass this Bill, I think we will be able to move quickly. That is all what I have to say. I think the suggestion put forward is not workable. It may land us in difficulties."

4-20
p.m.

SRI V. R. KRISHNA AYYAR :—" Has the Hon. Minister for Law given active consideration as to how to implement section 52-B of the original Act? Have they decided upon the officers to be appointed for this purpose? The Hon. Minister has not given a definite answer. I think the acceptance of the suggestion now put forward would definitely go to create a concrete machinery for bringing waste land under cultivation."

* SRI C. H. KANARAN :—" The Hon. Minister for Law said just now that steps are being taken by Government for bringing waste lands under the plough. Will the Hon. Minister amend the Bill now itself in such a way that a concrete machinery could be created for carrying out the work of bringing waste lands under cultivation? "

MR. SPEAKER :—" I shall now put the amendment of Sri T. C. Narayana Nambiar to the vote of the House. The question is—

'For sub-section (1) of section 52-B, substitute the following :—

" (1) The rent-fixing authority shall on application from any person desiring to cultivate any waste land or forest land require by order the landlord of such land to lease it for agricultural purposes to such person within such time as may be specified in the order in tenancy terms."

Retain the proviso under sub-section (1).

In sub-section (2) of section 52-B, omit the words "or officer" and for the word "may", substitute the word "shall". "

The amendment was put and lost.

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Clause 22.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ I intend first moving my amendment seeking to substitute a new section for section 52-E.”

MR. SPEAKER :—“ How can that be done? I shall take up amendments to section 52-C first. ‘ E ’ must come after ‘ C ’.” (Laughter.)

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move—
“ In the proviso to sub-section (4) of the proposed section 52-C add at the end the following :—

“ Whose rights claimed in the suit, the legal representative shall succeed subject to the liability to which the original plaintiff would be subject if the latter were alive and conducted the suit to its end.” ”

“ I have got a little doubt to be cleared and if the Government say that there is no room for any doubt and if they clarify the position, I shall not press my amendment. It is said in sub-section (4) of the proposed section 52-C that certain rights are personal to the cultivating verumpattamdar. But even when he has filed a suit, and dies subsequently it is said that his legal representative may continue the suit and if the legal representative continues as such he shall be subrogated to the rights which the original verumpattamdar possessed when he instituted the suit. I want to know whether the expression that the ‘ legal representative shall be entitled to continue the suit ’ also implies that the legal representative shall succeed to the rights of the original plaintiff subject to the liability to which the original plaintiff would be subject to if the latter were alive and conducted the suit to its end. I want to have that doubt cleared. If it is cleared, I shall withdraw my amendment.”

SRI M. JAGANNATHAN :—“ I second the amendment just moved.”

MR. SPEAKER :—“ Motion moved—

“ In the proviso to sub-section (4) of the proposed section 52-C, add at the end the following :—

“ Whose rights claimed in the suit, the legal representative shall succeed subject to the liability to which the original plaintiff would be subject if the latter were alive and conducted the suit to its end.” ”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ I may tell the hon. Member that I had gone through the new section 52-C carefully and I do not think it is necessary to include the present amendment suggesting an addition to the proviso to the proposed section 52-C.”

The amendment was, by leave of the House, withdrawn.

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MR. SPEAKER :—" I shall now take up the amendment of Sri T. C. Narayanan Nambiar. Let the hon. Member move it."

* SRI T. C. NARAYANAN NAMBIAR :—" Sir, I move—

' In the proposed section 52-C, sub-section (1) omit the proviso :—

" In sub-section (2) for the figures and words ' 28th March 1953 ' substitute the figures and words ' 28th July 1950 ' . "

" I congratulate the Hon. Law Minister and the Hon. Chief Minister on their having brought forward a new amendment for the insertion of the new section 52-E to the original Act. I have given the same amendments and also representations have been made on that issue. I hope the Hon. Minister will move it shortly. I congratulate him beforehand. That amendment deals with fugitive cultivation. I am glad that the Government have taken into consideration the difficulties of the tenants engaged in fugitive cultivation and have come to their rescue.

" Apart from that, coming to my amendment which I have just moved, I request the Government to accept it, for in fact it seeks to give relief to the verumpattamdar, to raise whose standard of living and status, the present Bill is intended. This is a vital issue. The tenants should be given protection from 28th March 1950 and not from last year."

SRI C. H. KANARAN :—" I second it."

MR. SPEAKER :—" The question is—

' In the proposed section 52-C, sub-section (1) omit the proviso :—

" In sub-section (2) for the figures and words ' 28th March 1953 ' substitute the figures and words ' 28th July 1950. ' " "

The amendment was put and lost.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I move—

' Insert the following as new section 52-E :— :

" 52-E. Rent for fugitive cultivation.—Where only a crop known in Malabar as Punam crop is raised on land let for fugitive cultivation rent shall be twice the assessment payable on the land or, where the land has not been assessed, twice the assessment payable on similar land in the neighbourhood. " "

SRI V. R. KRISHNA AYYAR :—" The amendment that is now sought to be introduced is no doubt good. But let it be understood that this has been already recommended by the Kuttikrishna Menon Committee as early as 1939. I am grateful to the Government for agreeing to that suggestion at least now."

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MR. SPEAKER :—“ The question is—

‘ Insert the following as new section 52-E :—

“ 52-E. *Rent for fugitive cultivation.*—Where only a crop known in Malabar as Punam crop is raised on land let for fugitive cultivation rent shall be twice the assessment payable on the land or, where the land has not been assessed, twice the assessment payable on similar land in the neighbourhood.” ’ ’ ’

The amendment was put and carried.

The clause as amended was put and carried.

Clause 23.

Clause 23 was put and carried.

Clause 24.

* SRI V. R. KRISHNA AYYAR :—“ Since the present Malabar Tenancy Amendment Bill is an important one and since we have no time to go through the clause-by-clause consideration of the Bill leisurely, I suggest if it is agreeable to the House that we would better sit till 6 o'clock and finish the clause-by-clause consideration of the Bill.”

THE HON. SRI C. RAJAGOPALACHARI :—“ I heartily commend that suggestion, Sir.”

SRI K. VINAYAKAM :—“ May I bring to the notice of the House that the Hon. Minister for Harijan Uplift had invited some hon. Members belonging to the Backward Classes for an engagement to-day evening and as such the acceptance of Mr. Krishna Ayyar's suggestion would amount to depriving us of being present here at 6 o'clock.”

THE HON. SRI C. RAJAGOPALACHARI :—“ But Malabar is more backward, Sir.” (Laughter.)

MR. SPEAKER :—“ The hon. Member is at liberty to attend that engagement. The only question is whether he would like to be present here till 6 o'clock he would not press for a division when a specific amendment is put to vote.”

SRI K. VINAYAKAM :—“ How can we give a blank cheque like that, Sir.” (Laughter.)

SRI E. K. MOIDU :—“ Sir, I move—

‘ For the words and figures “ six agricultural years beginning with 1947-48 and ending with 1952-53 ”, substitute the words and figures “ three agricultural years beginning with 1950-51 and ending with 1952-53.” ’ ’ ’

The amendment was duly seconded.

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MR. SPEAKER :—" Motion moved—

' For the words and figures " six agricultural years beginning with 1947-48 and ending with 1952-53 ", substitute the words and figures " three agricultural years beginning with 1950-51 and ending with 1952-53 " . ' "

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p.m.

* SRI T. C. NARAYANAN NAMBIAR :—" I move that—

' For the words " six agricultural years . . . 1952-53 ", substitute the words " one agricultural year, i.e., 1952-53. ' " "

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—" I move that—

' For the words and figures " six agricultural years beginning with 1947-48 and ending with 1952-53 " substitute the words and figures " two agricultural years beginning with 1951-52 and ending with 1952-53 " . ' "

SRI R. KRISHNAN :—" I second the amendment."

* SRI T. C. NARAYANAN NAMBIAR :—" I am not moving the amendment No. 87 as No. 45 moved by Sri P. K. Gopalakrishnan deals with the issue."

SRI V. R. KRISHNA AYYAR :—" I am not moving the amendment No. 37 as it only overlaps the hon. Member Mr. Moidu's amendment."

MR. SPEAKER :—" I wish to know whether the Government want to say anything."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" I oppose the amendments, Sir."

SRI P. K. GOPALAKRISHNAN :—" This is a very important matter, Sir. This pertains to arrears of rent payable by the tenant. All these six years, there had been failure of crops and drought prevailing. Now the Government come forward and say that tenants who had been unable to pay rent for the last six years should pay it immediately within three months . . ."

THE HON. SRI C. RAJAGOPALACHARI :—" Sir, if it is on the ground of ' unable ', most of the tenants have deposited the money in courts. It will lead to discrimination."

SRI P. K. GOPALAKRISHNAN :—" Many have even cleared their rent dues. It is no reason why that rent remission should not be given to those who are unable to pay the rent."

THE HON. SRI C. RAJAGOPALACHARI :—" Suits have been filed and money has been deposited in many pending cases. We cannot make a discrimination. It is a very difficult thing."

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SRI P. K. GOPALAKRISHNAN :—“ Sir, the question is this that for the last six years there had been failure of crops and drought conditions. It is a known fact that in Malabar the situation is much worse. If provision is made now that six years' rent should be paid, the tenants will not be able to pay such large amounts. The security of tenure that is given by one hand is taken back by the other hand. All the tenants who have got arrears to pay would be ousted from land. I hope Government would reconsider the suggestion put forward by me. Even the Malabar Pradesh Congress Committee has recommended only three years' arrears of rent and not six years'. (Interruption by Hon. the Finance Minister.) The Communist Party says 'one year'; the Praja Socialist Party says, 'two years' and the Congress Party says 'three years'. We may accept if a compromise is arrived at 'three years'.”

* **SRI M. NARAYANA KURUP** :—“ Sir, the statement made by the Hon. Chief Minister that the tenants have deposited the amounts in suits is not correct. Though there had been suits since 1947, what the Courts did was that they interpreted section 55 of the existing Malabar Tenancy Act as covering all cases and even cases where the suits should have been stayed only on deposits they stayed without deposits due to some reason or discretion. Now therefore in a good number of cases that are pending . . .”

* **THE HON. SRI C. RAJAGOPALACHARI** :—“ The hon. Member Mr. Kurup has really thrown more light on the difficulty that I pointed out. Even though there was necessity for depositing as per law, some have been good enough, orderly enough to deposit, but some have not deposited. So any change now will mean discrimination and it would be unfair.”

* **SRI V. R. KRISHNA AYYAR** :—“ In fact, some people have not deposited. They have been tripped on law. Certain courts interpreted the rights and protection given under the section in such a manner that even without deposits they had stayed; but the High Court held that there will be no stay without deposit. Thus, they were tripped on the law. (Interruption by the Hon. Finance Minister.) The Hon. Food Minister knows what lawyers do and I suppose he is certainly aware that lawyers are faithful to their clients in espousing their cause. When judges take certain views and those views become accepted, there are other litigants. There were divergent views in the Courts. That is one reason. Another reason is, I shall give a constructive suggestion, whatever the period fixed whether it is one year, two years or three years—I have already expressed my views when speaking on my amendments—it will not be possible for the tenant to deposit a large amount that might have accumulated within a year, that is, twelve months. Even under the Ordinance, the Indebted Agriculturists Relief Bill, the tenant gets one year. Even within that one year he will not be able to pay. So, in any case, it must be two years' period within which he will be enabled to deposit the rent, whatever the period fixed for arrears of rent.”

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4-35 p.m. * SRI R. KRISHNAN :—“ മലബാർ കടിയായ്ക്കു നിയമത്തിൽ പാട്ടായിട്ടു ചിത്തുണ്ടെന്നും വകുപ്പുകളുടെ എല്ലാ ഗുണങ്ങളും തട്ടിപ്പൊക്കം ജന്മിമാർക്ക് സൗകര്യം നൽകുന്ന ഒരു വ്യവസ്ഥയാണ് ആരു കൊല്ലത്ത പാട്ടുവാക്കി കൊടുക്കണമെന്നു പറയുന്നത്. ചില ജന്മിമാരും പാട്ടം അടന്നാൽ രശീനി കൊടുക്കാത്തവരാണ്. ഈ നിയമം ഇങ്ങനെ പാട്ടുവാക്കു പാട്ടുവാക്കിയുടെ പേരിൽ കൃഷിക്കാരുടെ വീടും പറമ്പും വീട്ടുസാമന്തങ്ങളും ജില്ലാചെയ്യറയിൽ സൗകര്യ ജന്മിക്ക് കിട്ടുന്നുണ്ട്. അതു കൊണ്ട് ഈ വകുപ്പു ഭേദഗതി ചെയ്യണമെന്നാണ് എന്റെ അഭിപ്രായം.”

* SRI T. C. NARAYANAN NAMBIAR :—“ The difficulty expressed by the Hon. Chief Minister was that it will be a discrimination against those of the tenants who had already deposited. Sir, it is quite customary if there had been any excess payment of rents, it will be counted for the next year. Thus, there is no difficulty so far as those who have already deposited are concerned. In view of what the Hon. Law Minister said yesterday about those people who had remitted arrears of rent, I hope the Hon. Chief Minister will consider this question again. As I said yesterday, it was during his time when he was the Chief Minister in 1938 that the arrears of rent were wiped off provided two years' arrears were paid. I do not find any more prosperity or any more improvement in the condition of the tenants of Malabar now so that they can be asked to pay six years' arrears of rent. Moreover I am afraid that it is for the Hon. Chief Minister that a change has come in the sense that he does not help the tenantry, as he was doing in 1938. I hope the Hon. Chief Minister will see the justice of this demand.”

4-40 p.m. SRI K. MADHAVAN NAMBIAR :—“ ആരു കൊല്ലത്ത പാട്ടുവാക്കി കൊടുക്കണമെന്നു നിയമം പടിക്കുന്ന ബഹുമാനപ്പെട്ട മുഖ്യമന്ത്രിയെ 1937 ൽ കാക്കിശാശനനിയമം പാട്ടുവാക്കിയ്ക്കു കൊടുക്കുന്നതിനുള്ളതാണ്.”

SRI C. H. KANARAN :—“ ‘Is it a question of discrimination?’, I ask. We cannot look at the problem like that. There are a large number of tenants who are yet to deposit the arrears and those who have paid have mortgaged their ornaments, etc. and have sold everything. I would request that there should be a provision only for two years' arrears. The provision requiring the tenant to deposit the arrears of rent for six years will cause considerable hardship.”

* THE HON. SRI C. RAJAGOPALACHARI :—“ When my colleague (the Hon. Minister for Law) was absent, Sri V. R. Krishna Ayyar suggested that the period may be two years instead of one year. There will be no difficulty. But look at the whole Act and the present changes. It will be rather difficult to make a new provision just now. In the old Act itself there is a provision to the following effect : ‘If before the expiry of twelve months from the commencement of this Act or *such further time as the Collector may from time to time allow.*’ So the Collector can grant further time. I request the hon. Member not to press his amendment.”

MR. SPEAKER :—“ Is the hon. Member pressing his amendment? ”

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SRI T. C. NARAYANAN NAMBIAR :—" Yes, Sir."

MR. SPEAKER :—" I am now putting Sri K. Moidu's amendment to the vote of the House. The question is—

' For the words and figures " six agricultural years beginning with 1947-48 and ending with 1952-53 ", substitute the words and figures " three agricultural years beginning with 1950-51 and ending with 1952-53 ".' "

The amendment was put and lost.

MR. SPEAKER :—" I am now putting Sri T. C. Narayanan Nambiar's amendment to the vote of the House. The question is—

' For the words " six agricultural years . . . 1952-53 ", substitute the words " one agricultural year, i.e., 1952-53 ".' "

The amendment was put and lost.

MR. SPEAKER :—" I shall now take up the amendment of Sri P. K. Gopalakrishnan—

' For the words and figures " six agricultural years beginning with 1947-48 and ending with 1952-53 ", substitute the words and figures " two agricultural years beginning with 1951-52 and ending with 1952-53 ".' "

* THE HON. SRI C. RAJAGOPALACHARI :—" I am appealing to my Friend not to press his amendment. I have explained the difficulty. Surely there will be discrimination especially because some have already paid and some have not paid. It will be unfair to a very large number of persons if we allow this amendment. Then there will have to be a provision barring those who have already deposited to get refund."

MR. SPEAKER :—" Is the hon. Member pressing his amendment? "

SRI P. K. GOPALAKRISHNAN :—" I would like to know whether the Hon. Chief Minister would accept the position."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" We are not able to accept it."

MR. SPEAKER :—" I am putting the amendment of Sri P. K. Gopalakrishnan to the vote of the House. The question is—

' For the words and figures " six agricultural years beginning with 1947-48 and ending with 1952-53 ", substitute the words and figures " two agricultural years beginning with 1951-52 and ending with 1952-53 ".' "

The amendment was declared lost.

A poll was demanded. The division bell was rung. The amendment was again put and lost. The demand for poll was not pressed.

Clause 24 was put and carried.

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Clause 25.

SRI M. NARAYANA KURUP :—“ Sir, I move only the amendment standing in my name—

‘ After sub-clause (2), insert the following proviso :—

“ *Provided further that where suits, execution and other proceedings have been stayed by Courts under section 54 or 55 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951) without going into the question whether they came under section 54 or 55, and stay has been ordered without deposit as required by section 4 of the Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949), then the Court shall have discretion, notwithstanding the time-limit fixed by section 4 of the Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949) to allow such deposits to be made within three months after the commencement of the Malabar Tenancy (Amendment) Act, 1954.*”

“ In moving this amendment, I have to say that I have brought forward this amendment to overcome the difficulty that was mentioned before. Under sections 54 and 55 of the existing Act, there are a number of suits pending in Malabar Courts, without going into the question whether really those suits are governed by section 54 or section 55, think that they are entitled to stay all suits. The difference between these two sections is this, namely, if a suit comes under section 54 and is governed by the provisions of the Madras Tenants and Ryots Protection Act, a deposit has to be made of two years' arrears and the tenant must continue to make the deposit in future also, but in other cases no such deposit need be made. Now, what happened was—of course it may be due to misinterpretation or wrong interpretation of the law by courts—that even cases which came under section 54 were stayed under section 55 without any order for making the deposit. In certain cases that went on appeal, the Hon. the Judges of the High Court have held that if a case really came within the scope of section 54 of the Act it should not be stayed without the necessary deposit. The difficulty arises in this way. If a suit, which ought to have been really stayed under section 54, is stayed under section 55 without any deposit and the time for deposit is also over, the tenants will be helpless and they will automatically be evicted. We are now repealing the Tenants and Ryots Protection Act. What is contemplated in this amendment is to give an opportunity to the Court to rectify any mistake by asking the tenant to deposit the arrears of rent and giving the relief that he is entitled to under this Act, if mistakes have crept in for no fault of the parties to the suit but due to interpretation of the Statute by the Court. Otherwise a large class of tenants whose suits have been stayed without deposits will be hard hit which is not the intention of the Legislature nor the intention of the Judges who granted the stay without

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deposit. Let the Government examine the amendment. My amendment need not be accepted, but I shall be satisfied if relief is given in the way the Government think fit."

SRI S. S. KOLKEBAIL :—" I second the amendment."

* SRI V. R. KRISHNA AYYAR :—" Sir, I understand from the Hon. Law Minister that he is going to modify the clause in conformity with the substance of the amendment of which I have given notice. Hence I do not propose to move my amendment."

* SRI K. M. SEETHI SAHIB :—" Sir, I have given notice of an amendment. The object of it is to give the benefit of the present Act to the tenants who have been dispossessed of the land in their possession. There is a provision in the Malabar Tenancy (Amendment) Act of 1951 giving the benefit of that Act to persons who were dispossessed of the land in their possession. I want a similar right to be given under this Act also. I would like to know the attitude of the Government towards my amendment."

* THE HON. SRI C. RAJAGOPALACHARI :—" As regards the first part of the amendment notified by Sri M. Narayana Kurup, the Government have no objection to accept it. It could be bodily incorporated in clause 25 of the Bill.

" As regards the amendment given notice of by Mr. Seethi Sahib, it proposes to give retrospective effect which will mean dispossession of people and re-instatement of others."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" The proviso in Sri Narayana Kurup's amendment may be included as the second proviso under sub-clause (2) of clause 25 with slight verbal changes. The first part of the amendment should read as follows :—

' After sub-clause (2), insert the following as the second proviso :

" Provided further that where suits, execution and other proceedings have been stayed by Courts under section 54 or 55 of the Malabar Tenancy (Amendment) Act, 1951 . . . " "

SRI M. NARAYANA KURUP :—" I accept the changes proposed."

SRI V. R. KRISHNA AYYAR :—" I take it that the Hon. Law Minister is extending the operation of the Act to pending decrees and orders, as I suggested. I thought he had agreed to it."

MR. SPEAKER :—" Is the hon. Member Mr. Seethi Sahib moving his amendment? "

* SRI K. M. SEETHI SAHIB :—" I have not heard the view of the Hon. Law Minister regarding my amendment."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, we have already taken certain decisions. If Mr. Seethi Sahib's amendment is accepted, there will have to be dispossession and re-possession of land and so on. Hence we are not in a position to accept the amendment."

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* SRI K. M. SEETHI SAHIB :—“ I am not moving my amendment as the Government are not willing to accept it.”

MR. SPEAKER :—“ I will put to vote the amendment of Sri K. Narayana Kurup with the verbal changes proposed by the Hon. Law Minister and accepted by the hon. Member. The question is—

‘ After sub-clause (2), insert the following as the second proviso :—

“ Provided further that where suits, execution and other proceedings have been stayed by Courts under section 54 or 55 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951) without going into the question whether they came under section 54 or 55, and stay has been ordered without deposit as required by section 4 of the Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949), then the Court shall have discretion, notwithstanding the time-limit fixed by section 4 of the Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949), to allow such deposits to be made within three months after the commencement of the Malabar Tenancy (Amendment) Act, 1954.” ’ ’

The amendment was put and carried.

Clause 25 as amended was put and carried.

New Clause 26.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move—

‘ After clause 25, insert the following as clause 26 :—

“ 26. The Secretary to Government in the Law Department shall renumber the sections and divisions of sections of the Malabar Tenancy Act, 1929, as amended by this Act, so that the sections and divisions shall bear consecutive numbers or letters as the case may be and make necessary consequential corrections in the references to sections and divisions of sections occurring in the Act; and the Act so prepared and certified by the said Officer shall be deemed to be the Malabar Tenancy Act, 1929 as amended by the Malabar Tenancy (Amendment) Act, 1954.” ’

“ This is only a formal amendment.”

MR. SPEAKER :—“ The question is—

‘ After clause 25, insert the following as clause 26 :—

“ 26. The Secretary to Government in the Law Department shall renumber the sections and divisions of sections of the Malabar Tenancy Act, 1929, as amended by this Act, so that the sections and divisions shall bear consecutive numbers or letters as the case may be and make necessary consequential corrections in

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the references to sections and divisions of sections occurring in the Act; and the Act so prepared and certified by the said Officer shall be deemed to be the Malabar Tenancy Act, 1929, as amended by the Malabar Tenancy (Amendment) Act, 1954." "

The amendment was put and carried.

Schedule to the Principal Act.

* SRI T. C. NARAYANAN NAMBIAR :—" Sir, I move the 5th amendment standing in my name, namely,—

' Add the following 22 villages to the Schedule :—

" Chittari, Kekkanam, Panayal, Pallikaru, Uduma, Baara, Kalanad, Chananad, Perimbusha, Thikkil, Adur-1, Adur, Adur-1-1, Katakam, Muliya-1, Muliya-2, Chengalam, Pata, Muttathodi, Kasaragod, Kootal, Kalingara." "

" The Malabar Tenancy Act has been extended to thirty-three villages of the South Kanara district. My amendment is for further extension of this Act to 22 more villages in the South Kanara district, because the tenure system and other conditions are the same there as prevail in other parts where this Act is in operation. I request the Government to accept my amendment."

SRI C. H. KANARAN :—" I second the amendment, Sir."

* THE HON. SRI C. RAJAGOPALACHARI :—" May I make an appeal that this substantial addition to Malabar area need not be pressed now? If it is only a question of examination of the conditions in a few villages the Government will look into it and bring in the necessary measures. No need to take them up now, because it will be a question of deciding whether they are really Kannada area or Malabar customs area."

* SRI T. C. NARAYANAN NAMBIAR :—" Sir, on the assurance given by the Hon. the Chief Minister that if necessity arises, the Act will be extended to other areas by a notification, I beg leave to withdraw my amendment."

The amendment was, by leave, withdrawn.

Clause 3.

Clause 3 was put and carried.

Clause 2.

MR. SPEAKER :—" Motion moved—

' That clause 2 do stand part of the Bill '."

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I move the amendment standing in my name, namely,—

' In paragraph (ii) (vv) in item (iv) of clause 2 for the word "three" substitute the word "one"."

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* THE HON. SRI C. RAJAGOPALACHARI :—" Instead of ' three ' to be made into ' one ', an explanation can be added to it. I want hon. Members to listen to the explanation that I now read. The explanation is—

Explanation.—Any interruption of the continuity of possession of an ulkudi that has taken place after the 28th March 1953 and before the Malabar Tenancy (Amendment) Act comes into force shall be deemed not to have taken place.' "

MR. SPEAKER :—" Is the hon. Member Sri T. C. Narayanan Nambiar moving his amendment to Clause 2 ? "

SRI T. C. NARAYANAN NAMBIAR :—" I am not moving my amendment, Sir."

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, there are three amendments standing in my name, namely :—

' (i) After the definition of " Rent Court ", insert the following proviso :—

" Provided that where a Revenue Divisional Officer is appointed to function as a rent court, no Tahsildar subordinate to him shall be appointed to function as a Revenue Court within the said Revenue Divisional Officer's Division." "

I move this amendment, but if the Government think that they can accept it, I shall press my amendment. Otherwise, I drop it. The Revenue Divisional Officer or a Tahsildar may constitute the Rent Court. If a Tahsildar is the Rent Court of any particular area within a Revenue Division, the Revenue Divisional Officer, having jurisdiction over the same Revenue Division, cannot be a Rent Court in regard to some other area of that Revenue Division. If a Revenue Divisional Officer and a Tahsildar happen to be Rent Courts in the same Revenue Division, then the independence of the Courts, for which we are pleading on all occasions, will be jeopardised. For instance, there may be two similar cases pending before the Revenue Divisional Officer and the Tahsildar."

SRI V. R. KRISHNA AYYAR :—" May I know whether it is in order for an hon. Member to speak of a condition, namely, ' if the Government are prepared to accept my amendment ' ? Is the hon. Member in order in moving this amendment so conditionally as to depend upon the grace of the Government? "

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, if I am not in order, I withdraw my condition, and I move the amendment " (Laughter.)

The amendment was duly seconded.

MR. SPEAKER :—" Is the hon. Member Sri V. R. Krishna Ayyar moving his amendment? "

SRI V. R. KRISHNA AYYAR :—" It has already been dealt with on an earlier occasion. I am not moving my amendment."

MR. SPEAKER :—" Is the hon. Member Sri T. C. Narayanan Nambiar moving his amendment? "

SRI T. C. NARAYANAN NAMBIAR :—" What is the number of the amendment, Sir? "

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MR. SPEAKER :—" It is 62 (iii). It reads—

“(iii) *Re-number* the existing item (iii) as item (iii) (b) and *insert* the following as item (iii) (a) :—

“(iii) (a) In clause (v) defining ‘tenant’, after the words ‘and includes’ the words ‘a sub-tenant how low so ever’ shall be inserted.”

If the hon. Member is not moving his amendment let him say so.”

SRI T. C. NARAYANAN NAMBIAR :—" I do not know where is this to be inserted.”

SRI C. H. KANARAN :—" This amendment was not circulated Sir.”

MR. SPEAKER :—" It was circulated.”

The amendment was not moved.

MR. SPEAKER :—" Is the hon. Member Sri V. R. Krishna Ayyar moving his amendment? ”

SRI V. R. KRISHNA AYYAR :—" What is the number of my amendment, Sir? ”

MR. SPEAKER :—" The amendment reads as follows :—

‘(iv) *Add* the following as item (iii) (c) :—

“(iii) (c) To clause (v), the following proviso shall be added, namely :—

‘Provided that any person who cultivates the land of another for consideration as lessee or as sub-lessee or on any other customary tenure, shall be entitled to claim the benefits conferred upon a tenant by this Act even though he may not be the immediate tenant under the landlord against whom he claims the benefit.’ ”

SRI V. R. KRISHNA AYYAR :—" Is the Hon. Speaker asking me about amendment No. 31? ” 6-10 p.m.

THE HON. SRI C. RAJAGOPALACHARI :—" The whole of it hinges on the other amendment relating to ‘contract rent or fair rent whichever is less’.”

SRI V. R. KRISHNA AYYAR :—" If I heard the Hon. Speaker aright, I want to extend it not merely to tenants who often times happen to be intermediaries but to the actual cultivating tenants who may be described as sub-tenants, so much so that the privileges or the benefits extended under the Act to a tenant may be available to a sub-tenant who is an actual cultivating tenant. That is the purport of my amendment.”

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, I move the following amendment to clause 2 of the Bill :—

‘In item (iv) for the word “or” occurring between the word “ulkudi” and the word “kudikidappu”, substitute the word “and”.’

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As I stated with regard to a previous amendment it is only a grammarian's amendment. The Government may kindly accept the amendment."

THE HON. SRI C. RAJAGOPALACHARI :—" With reference to a definition in the previous Act, the word ' or ' has been used. Therefore, it is correct to use here the word ' or '."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, I shall say what I wish to say. After that, if the Government feel that the word ' or ' is all right, I have no objection. Now, if copies of the Act are printed and if in some copies ' ulkudi ' alone is defined and in some other copies ' kudikidappu ' is defined, then one may say that the proposed definition may be accepted as the definition of ' ulkudi ' or ' kudikidappu '. But in every copy that we print, there is the definition of ' ulkudi ' and ' kudikidappu '. Therefore, ' and ' would be the proper word here. Even then, if the Government think that the word ' or ' is properly used here, I have no objection. But to me it seems that ' and ' alone would be the proper word here. If the mistake has already been committed in a previous Act I feel that that mistake need not be continued here."

* THE HON. SRI C. RAJAGOPALACHARI :—" We are revising the previous Act and in the previous Act on page 9 of the printed book, the hon. Member will see clauses (v), (vv) and (vv). In clause (vv) it is stated ' Ulkudi ' or ' kudikidappu ' means ' so and so.' So, we have to refer to it only that way."

* SRI M. NARAYANA KURUP :—" Sir, I move the following amendment which stands in my name—

' After item (iv), insert the following as item (v) :—

" (v) in clause (iv) (2) defining ' cultivating verumpattamdar ' the words ' or substantially the whole of it ' shall be added at the end.' "

Sir, this is a very small amendment to the definition of ' cultivating verumpattamdar '. The object of my amendment is this. A cultivating verumpattamdar must be first a verumpattamdar and must cultivate the land. Now, in a holding of, say, ten acres there may be one or two kudiyruppus or a few cents which are in the possession of tenants. Courts have held that in order that a verumpattamdar may be a cultivating verumpattamdar, he must be in entire possession of every inch of the property. That the object is not so is clear on a reading of the other provisions which refer to the major portion of it or substantially the whole of it in his possession. Therefore, my amendment is intended only to rectify this defect. It is more or less a technical amendment. No material changes are proposed and my amendment is intended only to cure this defect created by some judicial decisions. I hope it will be accepted by the Government."

The amendment was seconded.

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SRI C. H. KANARAN :—“ Sir, I move—

‘Renumber the existing item (iii) as item (iii) (b) and insert the following as item (iii) (a) :—

“ (iii) (a) in clause (v), defining ‘tenant’ after the words ‘and includes’, the words ‘a sub-tenant how low so ever’ shall be inserted.” ’ ’ ’

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the following amendment that stands in my name :—

‘For item (iv), substitute the following :—

“ (iv) clause (vv) defining ‘ulkudi’ or ‘kudikidappu’, the following clause shall be substituted, namely :—

“ (vv) (i) “Ulkudi” means any portion of land outside Fort Coch’n in which a person is allowed to put up a hut and reside therein or is allowed to reside in a hut put up by the landlord whether such person has agreed to pay rent or not.

(ii) “Protected ulkudi” means an ulkudi which has been in the continuous occupation of the holder or of any member of his tarwad, tavazhi, illom, kutumba, kavaru, or family for not less than one year.

(iii) “Kudikidappu” means any portion of a land in Fort Coch’n in which a person is allowed to put up a hut and reside therein or is allowed to reside in a hut put up by the landlord whether such person has agreed to pay rent or not.” ’ ’ ’

Sir, my amendment is in consonance with the provisions of the principal Act. The present Bill seeks to amend the definition of ‘ulkudi’, as meaning a hut in any portion of a land whereas in the original Act ‘ulkudi’ or ‘kudikidappu’ was defined as meaning any portion of a garden land wherein a hut was allowed to be put up. There is much difference between the two. According to the definition proposed in the Bill, an ulkudidar has got a right only over the hut and has no right over the appurtenant land. Naturally an ulkudidar will be raising some plantains or some vegetables around his hut. Now, if the definition proposed in the Bill is accepted as it is, the janmi or the landlord will be able to see that all those plantains and vegetables are removed. That is going on now in Malabar. I have come across dozens of cases of ulkudidars trying to raise plantains and other vegetables around their huts and the landlord coming and forcibly removing them unless all the fruits are given to him. Now, the present Amending Bill seeks to give protection in this respect to the landlord and not to the tenant. In this connexion, I would draw the attention of the House as well as of the Government to the dissenting note written by the hon. Member Sri A. Appu to the Report of the Joint Select Committee, wherein he has said—

“ Instead of improving upon the definition of “ulkudi” and “kudikidappu”, the present Amending Bill has mutilated the original definition and it would

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appear as though the ulkudi tenant has to cling on to the superstructure of his hut and not to stay on the site and the appurtenant land so absolutely needed for his residence, ... The present Bill is markedly retrograde compared to the Amending Act of 1951 in the above respect.'

This is a very important thing because the attack on the part of landlords against ulkudidars raising vegetables and other things around the hut has been going on and ulkudidars have been in a disadvantageous position. Now the Government come forward to give legality to the attacks of the landlord. I hope that the Government will realize the position and amend the definition suitably. Again, the Hon. the Chief Minister the other day promised that for protected ulkudi, one year's stay would be enough for security of tenure. That has not been expressed in the Bill. So, that question has also to be considered."

* SRI V. R. KRISHNA AYYAR :—" Sir, I want to draw the serious attention of the Government to one small point and it is just this. Under the existing Act as interpreted by the Courts, it has always been held that the Act is concerned only with the landlord and his immediate tenant. So, a sub-tenant who is entitled to relief under the Act has always been denied that relief for the reason that he is not a tenant but only a sub-tenant. The Malabar Tenancy Act does not deal with a sub-tenant. Actually what the Government and the House intend is to benefit the cultivator. The cultivator may not have the right at all to claim the benefits under the Act if he is not a tenant but is only a sub-tenant. It is common knowledge that in Malabar we have got a number of intermediaries and each intermediary becomes a tenant, a man below him being only a sub-tenant. I, therefore, seek by this amendment to confer all the benefits that a tenant can claim, that is, that an intermediary can claim, upon the cultivator even though he may happen to be a sub-tenant. The Government must protect this class of people also. Therefore we suggest that some suitable provision may be inserted so that these sub-tenants can also be brought within the field of beneficiaries under this Bill."

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P.m.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, regarding the definition of Ulkudi, we have given the correct definition. We have given them further rights and I do not think there is any difficulty with reference to the present definition. Regarding the point raised by Mr. Krishna Ayyar, if a sub-tenant was actually cultivating the land, he is also protected under the Act. He also gets benefit under this Act and there is no necessity to have a provision as suggested by Mr. Krishna Ayyar."

* SRI V. R. KRISHNA AYYAR :—" As regards sub-tenants, there are some hard cases decided by the High Court right from 1941 to 1952, to the effect that they are not included within the category of tenants. I will be thankful to the Hon. Minister if it could be expressly stated that these people also come under the category of tenants. By so doing, nothing will be lost, but much may be gained."

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* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" There is no difficulty as to that. Regarding Mr. Kurup's amendment, we find it difficult to accept the same. As for Mr. Krishna Ayyar's suggestion, the Government are not prepared to accept any one of the amendments, as they are not necessary. As regards ulkudi and protected ulkudi, we have come to certain conclusions and according to those conclusions, we will act."

SRI C. H. KANARAN :—" What about our amendment No. 62, Sir? "

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, the Government are not able to accept that amendment, as it is not necessary to accept it. Regarding Mr. Kurup's amendment also, the Government find it difficult to accept it as it is unnecessary."

MR. SPEAKER :—" What has the Hon. Minister to say about the amendments of Sri P. S. Krishnaswami Ayyangar? "

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Those amendments are also unnecessary. I request him to withdraw them."

MR. SPEAKER :—" Is the hon. Member Sri Krishnaswamy Ayyangar withdrawing his amendments? "

SRI P. S. KRISHNASWAMY AYYANGAR :—" I have moved two amendments. To which amendment, is the Hon. Minister referring, Sir? "

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" All the amendments."

SRI P. S. KRISHNASWAMY AYYANGAR :—" I withdraw all the amendments, Sir."

The amendments of Sri P. S. Krishnaswamy Ayyangar were, by leave of the House, withdrawn.

The amendment of Sri M. Narayana Kurup was put and lost.

SRI C. H. KANARAN :—" What about our amendment for the inclusion of the words, ' a sub-tenant how low so ever ' ? "

MR. SPEAKER :—" Is he withdrawing the amendment? "

SRI C. H. KANARAN :—" No, Sir."

MR. SPEAKER :—" The question is—

' *Renumber* the existing item (iii) as item (iii) (b) and *insert* the following as item (iii) (a) :—

" (iii) (a) in clause (v) defining ' tenant ', after the words ' and includes ', the words ' a sub-tenant how low so ever ' shall be inserted." " "

The amendment was put and lost.

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MR. SPEAKER :—“ I am now going to put the amendment of hon. Member Sri P. K. Gopalakrishnan to the vote of the House. The question is—

‘ For item (iv), substitute the following :—

“ (iv) for clause (vv) defining ‘ ulkudi ’ or ‘ kudikidappu ’, the following clause shall be substituted, namely :—

‘ (vv) (i) “ Ulkudi ” means any portion of land outside Fort Cochin in which a person is allowed to put up a hut and reside therein or is allowed to reside in a hut put up by the landlord, whether such person has agreed to pay rent or not.’ ” ”

(ii) “ Protected ulkudi ” means an ulkudi which has been in the continuous occupation of the holder or of any member of his tarwad, tavazhi, illom, kutumba, kavaru, or family for not less than one year.

(iii) “ Kudikidappu ” means any portion of a land in Fort Cochin in which a person is allowed to put up a hut and reside therein or is allowed to reside in a hut put up by the landlord, whether such person has agreed to pay rent or not.’ ” ”

The amendment was put and lost.

SRI V. R. KRISHNA AYYAR :—“ On a point of order, often-times, when ‘ ayes ’ are called, we find the voice from Government benches is raised so much that it appears that it is one and the same voice that is being reflected.” (Laughter.)

MR. SPEAKER :—“ I am now going to put the Government amendment to the vote of the House. The question is—

‘ In paragraph (ii) of (vv) in item (iv) of clause 2, for the word “ three ”, substitute the word “ one ”.’ ”

The amendment was put and carried.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move that the following be added to paragraph (ii) of (vv) in item (iv) of clause 2 :—

‘ Explanation.—Any interruption of the continuity of possession of an ulkudi that has taken place after 28th March 1953, and before the Malabar Tenancy Amendment Act, 1954, comes into force, shall be deemed not to have taken place.’ ”

The amendment was put and carried.

Clause 2, as amended, was put and carried.

Clause 1.

Clause 1 was put and carried.

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New Clause 1-A.

THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, I move the following amendment standing in my name, which is a consequential one :—

‘ After clause 1, insert the following as clause 1-A :—

“ Amendment of section 2, Madras Act XIV of 1930.—In section 2 of the principal Act,—

‘ (i) in sub-section (1), the words “ or for fugitive cultivation ” shall be omitted.

(ii) in the same sub-section, after the words “ for the market ”, the words “ or, subject to section 52-E, land let only for fugitive cultivation ” shall be added.” ’

The amendment was put and carried.

PREAMBLE.

MR. SPEAKER :—“ The motion is—

‘ That the Preamble do stand part of the Bill.’ ”

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p.m.

SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I move—

‘ Insert the following further Preambles :—

“ And whereas rents of agrarian holdings are being levied at high and unreasonable rates;

And whereas there has been widespread demand for protection of cultivating tenants against exorbitant rentals and fixing up of more moderate and fairer rentals by bringing down the existing rents;

And whereas it is necessary to protect the tenants from eviction and give fixity of tenure to them.” ’

SRI K. C. GOPALAN UNNI :—“ I second the amendment.”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ It is unnecessary, Sir. I oppose it. What is mentioned in the Bill is sufficient and I would request the hon. Member to withdraw his amendment.”

SRI T. C. NARAYANAN NAMBIAR :—“ The Bill has provided for fixity of tenure and reduction of rent, according to the Government. Then why should they fight shy of having the Preamble that I have suggested? ”

THE HON. SRI C. RAJAGOPALACHARI :—“ Sir, it will be a bad precedent to introduce propaganda in statutes.”

SRI C. H. KANARAN :—“ Why should amendments that do not go against the purposes of the Bill be withdrawn? ”

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MR. SPEAKER :—" It is only the title of the Bill. I shall put the amendment to the vote of the House. The question is—

‘ Insert the following further Preamble :—

“ And whereas rents of agrarian holdings are being levied at high and unreasonable rates;

And whereas there has been widespread demand for protection of cultivating tenants against exorbitant rentals and fixing up of more moderate and fairer rentals by bringing down the existing rents;

And whereas it is necessary to protect the tenants from eviction and give fixity of tenure to them.” ’ ’ ’

The amendment was put and lost.

The Preamble was put and carried.

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Sir, I move—

‘ That the Malabar Tenancy (Amendment) Bill, 1953, as amended be passed into law.’

Sir, in doing so, I have to thank hon. Members for the way in which they have co-operated with the Government in getting through this piece of legislation which is perhaps one of the most difficult of measures which the House has ever had to consider. I must also thank you, Sir, for giving us an opportunity to discuss this Bill in such detail.”

MR. SPEAKER :—" Motion moved—

‘ That the Malabar Tenancy (Amendment) Bill, 1953, as amended be passed into law.’ ”

(At this stage Sri T. C. Narayanan Nambiar occupied the Chair.)

SRI P. K. GOPALAKRISHNAN :—" Mr. Chairman, Sir, the Malabar Tenancy (Amendment) Bill is going to be passed into law in a few moments. It does not meet some of the most important demands of the peasants of Malabar. It falls short of the demands of the peasants of Malabar in three respects. One is with regard to security of tenure; that is, we demanded deletion of sections 14 and 20 of the principal Act. That has not been done. With regard to wiping out of arrears of rent, it has not met our demand. Then, thirdly with regard to definition of *ulkudis* and *kudikidappus*, again it falls short of our expectations. Almost ninety per cent of the demands of the peasants of Malabar have thus not been met. Therefore, I would like to point out that if the Government seek to remove the difficulties of the tenants in Malabar, they will have to bring forward another amending Bill in the near future. Unless the Government bring forward another amending Bill which seeks to give all the facilities that the tenants demand by way of security of tenure, reduction of rent, etc., I am sure that the tenants will start agitating against this Act itself. Of course, the Bill contains some provisions which are acceptable to us. But that does not

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mean that the main demands of the peasants of Malabar are met. The Government have always tried to prevent any reasonable amendment moved by the Opposition being accepted by the House. Only four Members from Malabar belonging to the Congress Party did not stand with the Opposition while a large majority of Members from Malabar were proposing amendments acceptable to the tenants. That should show what the will of the people and what the mind of the people of Malabar are. I hope Government have understood it and they will immediately—say within a few months' time—bring forward another Bill to amend this Act and provide facilities for tenants to live in peace."

* SRI V. R. KRISHNA AYYAR :—" Mr. Chairman, Sir, I rise with mixed feelings on this occasion. I unhesitatingly recognize that the provisions of this Bill will certainly improve the lot of the ryot or the tenant in Malabar. But I also see that the large expectations of the tenantry of Malabar and the fairly unanimous public opinion in Malabar have not been fully respected. With sore disappointment, I may mention that in certain respects there has been even certain retrograde features in the Bill. It is unfortunate that the Government have viewed the various suggestions made by the Opposition with considerable suspicion. Even the salutary suggestions that have been made have been carried by the Government saying they are unnecessary or that they do not accept them. That was the sort of argument put forth by the Government. There were many suggestions, many good and constructive suggestions put forth by the Opposition. They were also very moderate in their tone. They were positive, constructive and sober. All the same, they did not commend themselves to the Government. They were rejected. I do not know why. This attitude of the Government has created a sense of sadness. Even in respect of fairly unanimous demands made by the people of Malabar, the Government did not accept them. They have not chosen to feel the pulse of the people. They have not understood the feelings of the people of Malabar. On the whole, the Government did not permit the Opposition to help them with constructive suggestions. On the other hand, by a majority—I do not know if 'brute majority' is a parliamentary expression—I would say by a mute majority they have allowed themselves to overrule the feelings and sentiments of the Malabar people. All the same, I must thank the Government for certain improvements made in the Bill, particularly the one relating to fugitive cultivation and the like. Whatever it is, this question cannot be solved just by tinkering with the problem in a piecemeal way and by bringing forward patchwork amendments. This kind of policy will not achieve anything. Unless a comprehensive legislation, which will establish peasant proprietorship on a compensatory basis which is possible and practicable, is brought forward we cannot tackle this problem. The wish of the people and the consciousness of the people are ripe enough to work such a reform and that alone will be a happy consummation of their wish. We devoutly wish for the early consummation of that wish and I wonder whether we will have it achieved during the life of the present Government itself."

5-40
p.m.

* **SRI C. KUNHIRAMA KURUP** :—“ സർ, മലബാറിനെ ബാധിക്കുന്ന മറ്റൊരു പ്രധാനപ്പെട്ട കാര്യമായ നിയമം ഈ നിയമനിയമങ്ങൾ പട്ടികയിൽ വാങ്ങിയിരിക്കുകയാണ്. ഒരപ്രകാരം കൃഷിത്തരീതിക്കെടുപ്പിന്റെ ആ നാട്ടിലെ പൊതുജനങ്ങൾക്കെല്ലാ മുൻപോടിയെന്ന പ്രതിഷേധം നിലവിലുള്ളതുകൊണ്ടുപോലും ഒരു കമ്മിറ്റിയെപ്പോലും എന്തെങ്കിലും നിയമനിയമം ചിലപ്പോൾ എത്ര ശ്രമിച്ചാലും നിയമം കരാർപ്രകാരം നടപ്പാക്കുന്നതിനുള്ള ആ എത്രത്തോളം ശ്രമിച്ചാണെന്നു ഭവിയായിട്ടുണ്ടാകുമെന്നു നോക്കി മാത്രം ചിലപ്പോൾ വാങ്ങുന്നതാണ്. 1951 ലെ മധ്യപ്രദേശിലെ കർഷകനിയമം നാട്ടിലെ ജനങ്ങളെ നിരാശരാക്കി. നാട്ടിലെ ജനങ്ങൾ ആശങ്കിച്ച പാല നിയമനിയമങ്ങളിൽ നിയമത്തിന്റെ പ്രവർത്തനം ഒരു സുഷോഭനമായും എത്രമെങ്കിലും നാം കാണുകയാണ്. മലബാറിലെ കൃഷിക്കാർക്കിടയിലാണ് ഈ നിയമം നടപ്പാക്കണം. എങ്കിലും ഈ നിയമത്തെ സംബന്ധിച്ചിടത്തോളം അതിന്റെ പരമ്പരയിൽ എത്തിയിട്ടുള്ളതിൽ കൃതജ്ഞതയും ജഡ്ഢിയും. ഒരു രണ്ടു കാര്യങ്ങളാണ് മലബാറുകാരെ വളരെ അസഹ്യരായാക്കിയതും കയ്യെടുത്തതും. ഒരു സ്ഥിരവകാശം. രണ്ടു പാട്ടം നിജപ്പെടുത്തൽ. പി.എസ്.വി. യിടന്നും കൊണ്ടുവന്നിട്ടുള്ള ഏറ്റവും മനോഹരമായതിനേക്കാലം വയലേഴ്സ് സർട്ടിഫിക്കറ്റിട്ടു. ഈ നിയമങ്ങളെ മേൽ കാണിച്ച ഇനങ്ങളിലെ നിബന്ധന മലബാറിലെ ജനങ്ങളുടെ മനസ്സിലെത്തുന്നതല്ലെന്ന വസ്തുത വയലേജിന്റെ ശ്രദ്ധയിൽപ്പെടുത്തുന്ന ആവശ്യമാണ്. ഈ നിയമനിയമങ്ങളെ നിലനിർത്തിയിട്ടുള്ളതുകൊണ്ടു നിയമസഭയുടെ കൈയ്യിൽ നിന്നും അകലിയാൽ മലബാറിലെ കർഷകപ്രശ്നങ്ങൾ പരമ്പരയായി ഒരു പരിഹാരം കാണുന്ന ഈ വയലേജിന്റെ സമരസമുദായത്തെ പ്രശ്നപ്പെടുത്തുകയും. ഈ നിയമനിയമങ്ങളെ നിലനിർത്തി വേലയ്ക്ക് പ്രവർത്തനത്തിൽ നാട്ടിലുള്ള സകലജനങ്ങളുടേയും മനോഹരമായതെന്ന വീക്ഷണമെന്നും, ഈ നിയമത്തെ നാട്ടുകാർ എങ്ങനെ സ്വാഗതം ചെയ്യുന്നവേലകളെന്നും വയലേജ് ശ്രദ്ധിക്കണമെന്നും അപേക്ഷിച്ചുകൊണ്ടു ഞാനും അധ്യക്ഷനായിട്ടുണ്ട്.”

* SRI K. M. SEETHI SAHIB :—“ Mr. Chairman, Sir, when the Government Bill was first published, it came to us all as a disappointing piece of legislation and some of us expressed frankly our views about the Bill. But while the Bill was considered by the Select Committee and later when it came up for discussion on the floor of this House, I should gratefully acknowledge that the Government took a very helpful attitude. Government showed very sympathetic attitude towards the points raised by us a definite bias in favour of the welfare of the tenants. They agreed to and formulated a number of amendments which will give far-reaching benefits to the tenant class in Malabar. It will be sheer ingratitude on the part of hon. Members here to deny the credit due to Government for having given all these concessions to the tenants. I convey my heartiest congratulations to Government for having extended those concessions to the tenants of Malabar. Firstly in the matter of fixity, Government have given fixity of tenure to all tenants who have been in occupation of the land for six years, a proposition which came as an agreeable disappointment to most of us on this side of the House. Fixity of tenure after a period of occupation of twelve years was considered by some of the leading organs of public opinion in Malabar to be a very liberal concession made by the Government. The present concession, namely, that six years period would be sufficient to give fixity of tenure to the tenant, is a greater concession. But we, the Members of the Muslim League, have to express our disappointment at the Government not accepting some of the amendments moved by us on account of the difficulty which Government expressed in reconciling conflicting interest with reference to land tenure in Malabar. All

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the same, we, the Members of the Muslim League Party, have to certainly congratulate the Government on this piece of legislation they are placing in the Statute Book. It is undoubtedly a great advance on the existing Act as amended by the amending Act of 1951. It will certainly be appreciated by the tenants of Malabar. Indeed no piece of legislation can be considered to be the final word on the subject. As time advances amendments may come in. Public opinion might veer round and Government may have to accept such amendments as would meet the demands of the public. For the time-being, the legislation that is being placed on the Statute Book should be welcomed by very large sections of the public in Malabar. In this connexion, it is my earnest wish and prayer that all of us should contribute to the contentment and prosperity of the people in Malabar by bringing about good understanding between the landlords and tenants. We should give them a stimulus to cultivate the land peacefully and well so that food production may increase and with the increase in food production the prosperity of the land may also increase. This can only be achieved by the establishment of good relationship between the landlords and the tenants. May this piece of legislation bring in peace and contentment among the people in the district of Malabar."

SRI K. P. GOPALAN :—" Mr. Chairman, Sir, for the past two days we have been discussing this Bill. We brought forward many amendments and pressed them for the acceptance of Government and opposed many of the amendments brought forward by Government. From the deliberations here, I am sure, the people of Malabar will judge what we have done in the Assembly and what the Government have done for the good of the people. I need not speak much on that.

" Even for this piece of legislation the people of Malabar fought so many big battles. It is because of the great sacrifices made by the people of Malabar that the Government were forced to bring in this legislation. When the original Bill was introduced in the House, I protested vehemently against the provisions contained in that Bill. Though some concessions have been made by Government in the present Bill, they have not effected any basic change in the tenure system of Malabar and this Bill I am sure, will not satisfy the people of Malabar. I have no doubt about it. Regarding the amendments moved by us I am certain the people of Malabar, the peasants of Malabar, will support us in having moved those amendments and oppose the Government for rejecting them. Government did not take a favourable view especially in regard to arrears of rent for the non-payment of which the landlord could evict the tenant from his holding. We pressed the Government to accept the formula that in fixing fair rents, the fair rent or the contract rent whichever is less should be accepted. But Government did not agree to this formula. Now provision has been made in the Bill that if a tenant was in possession of a holding for a period of six years, he shall not be evicted from his holding. But I wish to bring to the notice of Government, there are thousands and thousands of peasants who are in possession of the land for

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three years, two years and one year. So we requested Government that at least 5 acres of land should be provided for these people. We said the area in excess of five acres may be allowed to be taken away by the landlords. This request also was turned down by the Government. Regarding pepper gardens, I come from a constituency where there are thousands and thousands of acres of pepper gardens, I know the conditions prevailing there. In regard to this also the Government have not done the right thing to the tenants.

(At this stage the Speaker resumed the Chair.)

“The people of Malabar will only take this as a stepping stone for demanding further agrarian reforms. Until the demands of the Kisan Sabha of Malabar are conceded, the people of Malabar will not keep quiet. Members from Malabar belonging to the Communist party, the Paraja Socialist Party, the Muslim League Party, Independents, all put forward their demands unanimously but I regret to state they were all turned down by the Government. Though the Government had made some concessions, the people of Malabar will not be satisfied with this Bill. The people of Malabar will unite and fight for further agrarian reforms. With these words I resume my seat.”

* **SRI T. C. NARAYANAN NAMBIAR** :—“സാർ, ഈ മലബാർ കടിയായു ഭേദഗതി നിയമം ഈ സഭയിൽ ആലോചനക്കു എടുത്തതുമുതൽ അതിന്റെ വകുപ്പുകളെക്കുറിച്ചും ഭേദഗതികളെക്കുറിച്ചും ഇംഗ്ലീഷിലായിരുന്ന ഞാൻ സംസാരിച്ചത്. മലയാളം അറിഞ്ഞുകൂടാത്ത അംഗങ്ങൾക്കുകൂടി മനസ്സിലാക്കണമെന്ന ഉദ്ദേശത്തോടുകൂടിയാണ് ഞാൻ അങ്ങിനെ ചെയ്തത്. ഇപ്പോൾ ഞാൻ മലയാളത്തിൽ സംസാരിക്കണമെങ്കിൽ അത് എല്ലാ മലയാളികൾക്കുംകൂടി മനസ്സിലാക്കണം എന്നുതന്നെയാണ്. സാർ, ഈ ഭേദഗതി ബിൽ ഒരു സെലക്ട് കമ്മിറ്റിക്കു അയയ്ക്കണമെന്ന തീരുമാനം ഈ അസംബ്ലി എടുത്തപ്പോൾ സെലക്ട് കമ്മിറ്റിയിൽചെന്നു ജനങ്ങളുടെ ആവശ്യങ്ങൾ എന്തൊക്കെയാണെന്നു പറയാനാണെന്നു കരുതി അതിൽ ചെന്നു കഴിയുന്നതെല്ലാം പ്രവർത്തിച്ചിട്ടുണ്ട്. ചിലതെല്ലാം ഭേദഗതിചെയ്തു എന്നല്ലാതെ മലബാറിലെ കൃഷിക്കാരുടെ ന്യായവും മിതമായും എല്ലാ ആവശ്യങ്ങളും വകവെച്ചുകൊടുക്കാൻ ഗവണ്മെന്റ് തയ്യാറായിട്ടില്ല. പാട്ടമ്പാക്കി ആറു കൊല്ലത്തേക്കു ഇറക്കുന്നതിനുള്ള ഗവണ്മെന്റ് നിയമത്തിനെതിരായി ഒരു കൊല്ലമാക്കണമെന്ന ആവശ്യം ഭേദഗതി സീക്രട്ടിച്ചിട്ടില്ല. എന്നാൽ ചില ഭേദഗതികൾ സീക്രട്ടിച്ചിട്ടുണ്ടെന്നുള്ളതു സന്തോഷാപരമാണ്. പുറം കൃഷിയുടെ പാട്ടത്തോളം നിശ്ചയിച്ചിട്ടുള്ളതിനെ ഞാൻ സ്വാഗതം ചെയ്യുകയാണ്. അതു ഞങ്ങൾ വിന്യസിക്കുന്നില്ല. മലബാറിലെ പ്രശ്നത്തിന്റെ ആഴം മനസ്സിലാക്കിയിട്ടുള്ള, അതിനാൽ അടിയന്തിരാവസ്ഥ മനസ്സിലാക്കിയിട്ടുള്ള ആളുകൾക്കു മനസ്സിലാക്കുന്നതാണ്. ഞങ്ങൾ ഇവിടെ ഉന്നയിച്ചിട്ടുള്ള ആവശ്യങ്ങൾ കർഷകസംരംഭത്തിനും രജിസ്ട്രേഷനും അതിവായ്പത്തോടുകൂടിയതാണ്. ബഹുമാനപ്പെട്ട കോൺഗ്രസ്സ് മെമ്പർമാർ അതിനെതിരായി വോട്ടുചെയ്തിട്ടുണ്ടെങ്കിൽ അത് ഒരു നല്ല ലക്ഷണമായി ഞാൻ കണക്കാക്കുന്നില്ല. ഗവണ്മെന്റ് സംസ്ഥാനമാകെ അടിയന്തിരമായി ഒരു കർഷകനിയമം കൊണ്ടുവരാൻ പോകുന്നുവെന്നു പ്രസ്താവിക്കുകയുണ്ടായിട്ടുണ്ട്. അത് എന്തുപ്രകാരം വരുമെന്നുള്ളത് പറയാമായിട്ടില്ല. അടിയന്തിരമായി ചില കാര്യങ്ങളെ സംബന്ധിച്ചാണ് ഞാൻ ഭേദഗതികൾ കൊണ്ടുവന്നിട്ടുള്ളത്. അവ ഉൾപ്പെടെ അടിയന്തിരമായിട്ടുതന്നെ വിപുലമായ ഒരു കർഷകനിയമം കൊണ്ടുവരണമെന്നായിട്ടുണ്ട്. അത് ഗവണ്മെന്റ് ചെയ്യുമെന്നു ഞാനുറപ്പിക്കുന്നു. ശ്രീ വി. ആർ. കൃഷ്ണയ്യരുടെ ഒരു ബിൽ സഭയുടെ മുമ്പാകെ ഉണ്ട്. അതും ആലോചനയ്ക്കുകയെന്നു ഞാൻ പ്രതീക്ഷിക്കുന്നു.”

* **SRI K. MADHAVAN NAMBIAR** :—“സാർ, മൊത്തത്തിൽ ഈ ബില്ലു പരിശോധിച്ചാൽ മലബാറിലെ ചെറുകൃഷിക്കാർക്കു കറിയെല്ലാം ആശ്വാസം നൽകുന്നതെന്നുള്ളത് വളരെ സന്തോഷകരമാണ്. അതായത്, ഈ ബില്ലു ആദ്യം കൊണ്ടുവന്ന

9th January 1954]

[Sri K. Madhavan Nambiar]

തിൽനിന്നു കടയൊക്കെ മുന്നോട്ടു പോയിട്ടുണ്ടെന്നുള്ളതു് പറയാതെ ചിരിക്കാൻ നിവൃത്തിയില്ല. എന്നാൽ പല പ്രധാന കാര്യങ്ങളിലു ഗവണ്മെന്റ് വിട്ടുവീഴ്ച ചെയ്യാത്തതാൽ ഞാൻ ഖേദിക്കുകയും ചെയ്യുന്നു. ഇത്രയും വിട്ടുവീഴ്ചകൾ ചെയ്യുന്നിന്നു മന്ത്രിമാരെ അടിനടിക്കുന്നതോടൊപ്പം മലബാറിലെ കൃഷിക്കാരുടെ ശക്തിമത്തായ പ്രദക്ഷോഭത്തിന്റെ ഫലമായിട്ടും ഈ സഭയിലെ ഭൂരിപക്ഷം മലയാളിമെമ്പർമാരുടെ യോജിച്ച ഏതുപ്ലിന്റെ ഫലമായിട്ടും ആണ് ഇത്രയും വിട്ടുവീഴ്ചകൾ ചെയ്യാൻ ഗവണ്മെന്റ് തയ്യാറായിട്ടുള്ളതെന്നു മനസ്സിലാക്കണം. ഞാൻ അനുസരിക്കുന്നു. പാട്ടത്തിന്റെ കാര്യത്തിലും ഒഴിപ്പിക്കലിന്റെ കാര്യത്തിലും ചില വിട്ടുവീഴ്ചകൾ ചെയ്തിട്ടുണ്ടെങ്കിലും മറ്റൊപ്പാട്ടത്തെ സംബന്ധിച്ച വ്യവസ്ഥകൾ വളരെ ദോഷകരമാണ്. എന്തിന്, ഏതെങ്കിലും പാട്ടം കൊടുത്തു തീർക്കണമെന്നുള്ള വ്യവസ്ഥയെ സംബന്ധിച്ചും ഗവണ്മെന്റ് വിട്ടുവീഴ്ചചെയ്യാത്തതിൽ ഞാൻ പരിതപിക്കുന്നു. മറ്റൊരു ബഹുഭൂരിപക്ഷം മലയാളിമെമ്പർമാരുടെ ഏതുപ്ലുകളുണ്ടായിട്ടും അത്തരം പ്രധാന കാര്യങ്ങൾ സ്വീകരിക്കാറില്ല. ഓർഡറുകൾമായിട്ടു പോയി. പക്ഷെ ഈ ആവശ്യങ്ങൾ നേടുന്നതുവരെ മലബാറിലെ കൃഷിക്കാർ അടങ്ങിയിരിക്കാൻ പോകുന്നില്ല എന്നു ഗവണ്മെന്റിനെ ഓർപ്പു ചെയ്തിരിക്കാൻ ഞാൻ അപവാദം നില്ക്കുന്നു.”

* SRI K. C. GOPALAN UNNI :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, വളരെയധികം ആശങ്കയോടെയാണ് ഈ കടയായ്ക്കു ബില്ലിനെ ലബോർ ലെജനങ്ങൾ നോക്കിക്കൊണ്ടിരുന്നത്. പക്ഷെ ഇപ്പോൾ പാസ്സാക്കിയിട്ടുള്ള നിയമത്തിൽ പാട്ടം ചുരുക്കുന്നതിന്നു പകരം വർദ്ധിപ്പിക്കാനുള്ള അവകാശം ജനുമാർ കൊടുത്തിരിക്കുകയാണ്. പാട്ടം നിജപ്പെടുത്താനുള്ള നിബന്ധവ്യവസ്ഥയില്ലായ്മയാണ് മറ്റൊരു സ്തൂനം. ആരു കൊല്ലത്തെ ബാക്കിപാട്ടം കൊടുക്കണമെന്നാണ് ഇപ്പോൾ വ്യവസ്ഥചെയ്തിരിക്കുന്നത്. അതു് കൃഷിക്കാർക്കു സഹായിക്കാനുള്ള ഒരു വ്യവസ്ഥയല്ല. അതു തികച്ചും മുന്നേകരമാണ്. ആരു കൊല്ലത്തെ ബാക്കി പകരം ഒരു കൊല്ലത്തെ ബാക്കി കൊടുത്താൽ മതിയെന്നു ഇവിടെ അവതരിപ്പിച്ച ഭേദഗതി സ്വീകരിച്ചിരുന്നെങ്കിൽ അതു വളരെ ആശ്വാസകരമായിരുന്നു. എന്റെ നിരോധകമണ്ഡലത്തിൽ സംബന്ധിച്ചേടത്തോളം ഗവണ്മെന്റിന്റെ നിലപാടിൽ വലിയ ആക്ഷേപത്തിന്നു വകയുണ്ട്. മലബാറുകൾ വാങ്ങിച്ചു കൃഷിചെയ്തിട്ടുള്ള ആളുകൾക്ക് മറ്റൊപ്പാട്ടത്തിന്റെ വ്യവസ്ഥ കാണ്ടു പാട്ടം ഇറക്കിക്കൊടുക്കാനുമാണ്. അതിനെ സംബന്ധിച്ച ഗവണ്മെന്റ് യാതൊരു വിട്ടുവീഴ്ചയും തയ്യാറില്ലെന്നുള്ളതു് വ്യസനകരമാണ്. ഏതായാലും ഈ ബില്ലുകാണ്ട് മലബാറിലെ ജനങ്ങൾ റൂപ്പിപ്പെടുക്കയില്ലെന്നു ഗവണ്മെന്റിനെ വളരെ മേലം മനസ്സിലാക്കും. മലബാറിലെ ജനങ്ങളുടെ പ്രതിനിധികൾ ഇവിടെ ഉള്ളതുകൊണ്ട് മലബാറിലെ കൃഷിക്കാരുടെ ഹൃദയം ഇനിയും ഇവിടെ എത്തും. ഇവിടും നല്ലൊരു നിയമം താമസിയാതെതന്നെ കൊണ്ടുവരാൻ ഗവണ്മെന്റ് നിബന്ധനയോടെയെന്നു നിങ്ങളുടെ ധർമ്മം.”

* SRI R. KRISHNAN :—“ സർ, ഏതായാലും ഒന്നുണ്ടു കൊല്ലക്കാലം കാത്തിരുന്നു ഒടുവിൽ ഇപ്പോഴത്തെ ഒരു ബില്ല് കൊണ്ടുവരാനും അതു പാസ്സാക്കാനും സംഗതിയായതിൽ, മലബാറിലെ ജനങ്ങൾ കൃഷിക്കാരും തമ്മിൽ കോടതികളിൽ കേസ്സു കൊടുത്തു ബുദ്ധിമുട്ടുന്നതിൽനിന്നു വിമോചനം നൽകാൻ ഇടയായതിൽ, ഞാൻ ബഹുമാനപ്പെട്ട മന്ത്രിമാരെ അഭിനന്ദിക്കുന്നു. അതോടുകൂടിതന്നെ ഈ നിയമത്തിലെ ചില കുറവുകളെപ്പറ്റി പായാതിരിക്കാനും നിവൃത്തിയില്ല. ആരു കൊല്ലത്തെ പാട്ടം കൊടുക്കണമെന്നും ആരു കൊല്ലം ആകത്തുവരെ ഒഴിപ്പിക്കണമെന്നും വ്യവസ്ഥ വെച്ചിട്ടുള്ളതു് കഷ്ടമായിട്ടു പോയി. ഇന്നത്തെമാതിരിയുള്ള ഒരു ഗവണ്മെന്റിന്നു ഇതിൽ പരമ മുന്നോട്ടുപോകാൻ തരമില്ലെന്നാണിതു് കാണിക്കുന്നത്. പക്ഷെ ജനങ്ങളുടെ ഒരു ഗവണ്മെന്റിനെ മാത്രമേ കൂടുതൽ ജനാധിപത്യപരമായ ഒരു ബില്ല് കൊണ്ടുവരാൻ സാധിക്കുകയുള്ളൂ. ആങ്ങളുടെ ന്യായമായ ചില ഭേദഗതികൾ സ്വീകരിക്കാത്തതിൽ ഞാൻ ഖേദിക്കുന്നു. മലബാർ കിസാൻ സഭയും കമ്മ്യൂണിസ്റ്റ് പാട്ടിയും മലബാറിലെ ഭൂരിപക്ഷം ജനങ്ങളും നിർദ്ദേശിച്ചതനുസരിച്ചുള്ള ഒരു ബില്ല് അടുത്തുതന്നെ കൊണ്ടുവരാൻ സാധിക്കുമെന്നു വിശ്വാസം എനിക്കുണ്ട്.”

* SRI M. NARAYANAN NAMBIAR :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, ചില കാര്യങ്ങളിൽ പുരോഗതി ഉണ്ടായിട്ടുണ്ടെങ്കിലും ബാക്കിയായ കാര്യങ്ങളിൽ മലബാറിലെ കർഷകരെ സംബന്ധിച്ചിടത്തോളം ഈ ബില്ല് രൂപീകരണത്തെ പറയാൻ നിവൃത്തിയില്ല.

[Sri M. Narayanan Nambiar] [9th January 1954]

എന്റെ നിശ്ചയകര മണ്ഡലത്തെ സംബന്ധിച്ച പരയുകയാണെങ്കിൽ തെക്കൻകണ്ണാടകത്തിലെ മുപ്പത്താലൂക്ക ഗ്രാമങ്ങളിൽ ഈ നിയമം ഏകദേശമാണ്. എന്നാൽ ചില ഗ്രാമങ്ങളെ വിട്ടുകളഞ്ഞിരിക്കുകയാണ്. ബഹുമാനപ്പെട്ട മുഖ്യമന്ത്രി പറയുകയുണ്ടായി അതേപ്പറ്റി പരസോധന നടത്തി അവയെക്കൂടി ഉൾപ്പെടുത്തണമോ എന്ന് ആലോചിക്കുന്നതാണ്. അതിനെ സംബന്ധിച്ച എല്ലാ രേഖകളും ഗവണ്മെന്റിന്റെ മുമ്പാകെയുണ്ട്. രാജഭവനത്തു നില്പോട്ടും കട്ടിക്ലാക്കുമനോൻ കമ്മറ്റി നില്പോട്ടും ചില കലക്ടർമാരുടെ റിപ്പോർട്ടും ഗവണ്മെന്റിന്റെ മുമ്പാകെയുണ്ട്. ആ റിപ്പോർട്ടുകളെ അടിസ്ഥാനപ്പെടുത്തിയാണു് ഈ ബില്ലിൽ േ അ വ്യവസ്ഥകൾ ഉൾപ്പെടുത്താമായിരുന്ന. ഗവണ്മെന്റ് തന്നെ ഈ കാര്യത്തിൽ ഒരു ഭേദഗതി കൊണ്ടുവരാനായിരുന്നു. ഏതായാലും ഇപ്പോൾ മുഖ്യമന്ത്രി നടക്കിയ ഉറപ്പുനടപ്പിന് താൽപ്പര്യമുള്ളതെന്ന ഗവണ്മെന്റ് അതു ചെയ്യാമെന്ന വിശ്വാസമുണ്ടാണു് ഞാൻ നിറുത്തു.

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* THE HON. SRI C. RAJAGOPALACHARI :—“ Mr. Speaker, Sir, I must first express my gratification that we have come to the concluding stage of this Bill in spite of all the difficulties involved. I am very glad that it has been possible to make a great improvement in the position of the tenants. Notwithstanding the observations of the hon. Members sitting opposite that what has been done is not much, I do feel sincerely that a great deal has been done and that the position of the tenants has been very greatly eased.

“ The number of concessions that we introduced in the Bill and which I enunciated the other day, I thought, would satisfy hon. Members to the extent of changing their minds and their attitude altogether. I am grievously disappointed at the persistent stand which they have taken. But I can understand that policy of theirs. Because, if the sum-total of the concessions are important and if they changed their attitude, it means that they must wind up their party in Malabar, which it is impossible for them to do. If our concessions are really so big and good and if that should satisfy the Communist Party, they have no future, as they imagine in Malabar. It is very natural indeed. And, therefore, I can understand the vehement statements and protests that they are making at the concluding stage of the proceedings, which indicate that they have really appreciated the great changes made and that they are very much concerned about their own future. That is why they say, this Bill will never satisfy the people of Malabar and they will bring the entire people against this Bill.

“ Sir, after all, they should deal with me in a different way. They might deal with the party that is in office in the way in which they have done. But, I think, they are wrong in dealing with me in this manner when I have broken all conventions and have allowed myself to be exploited by the hon. Gentlemen sitting opposite. I have allowed myself willingly and voluntarily to be exploited by them and have made many concessions. As a matter of fact, though it was the Government's own decision and the Government's own voluntary decision, still I am willing to put it this way : that the concessions were due to the requests made by them and due to the pressure brought to bear on us by them. Yet they did not take advantage of that position. They could have

[Sri C. Rajagopalachari]

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gone out and said to the people of Malabar: 'These are the concessions that we got. Look at the statement of the Chief Minister. He says that he gave them on account of pressure brought to bear upon him by us. That is our utility and you must, therefore, recognise us as an important party in the country.' They could have done that in a reasonable way. If I had been leading their party, I would have done it. But they are unable to understand the position that way. They think on narrow lines. They think that only forceful speaking, shouting and vehement utterances bring strength to the party. They are greatly mistaken. After receiving the announcement of the concessions from me and after expressing great and cordial approval in the manner in which they received it in the House, I saw Members and the deputation that came and I questioned them, understood their case, considered their position. Then I saw Mr. Kelappan who came on his party's account and mentioned to me certain points. Although they non-co-operated when they were invited to participate in the Joint Select Committee, they came and explained their view points. We dispersed in a cordial atmosphere. We have carried out here, in this House, most of the things pressed for and some that were refused in the Joint Select Committee. Now, hon. Members sitting opposite and the same deputation go out and hold public meetings and shout, at the top of their voice, that this Bill has been forced by the Government on the people of Malabar and they will resist it to the last drop of their blood. I do not know if they used the word 'blood'. (Voices from the Opposition: 'No.') I am glad that they did not use the word 'blood'. Metaphorically, it means not the blood but all the energy that it contains. This is not a fair way of dealing with one who has done so much not only for the tenants but so much for the party opposite in every respect, not only in this matter but in every respect. I am treating them like my children. They do not appreciate it. I am expressing my feelings as a father would do. But after all this, what is the position? In this connection, I wish to point out a fundamental mistake. It is true, in a political contest, any particular party, whether it is the Congress Party or the Communist Party or any other party, may come on top in the elections. We have a Constitution and it is not the Communist Constitution but the Congress has given a Constitution to the country which has been accepted. This Constitution is based on adult suffrage so that the larger number of people have a majority and govern. Now, does it mean, therefore, that under the Constitution, whatever the larger number of people, who will always be on the top, demand in their interests, must be the law? But, to claim that what pleases the majority of the people or the larger number of people and what satisfies the private interests of the majority of the people must be taken to be the law for the country and accordingly, must be made the law of the country, would be a demonstration that adult suffrage and democracy are unjust. No country can tolerate such a tyranny of the majority. I stand for another principle. Hon. Members should understand it. If they do not immediately understand it, I want them to reflect on it. It may

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be that adult suffrage is right. It gives the majority always to the 'have-nots.' But that does not mean that the 'have-nots' can oppress the 'haves.' It does not mean that the majority should always have it according to their own private interests. Now, the claim of the tenants here is the claim of the interests of the tenants. It is true that the number of tenants is larger than the number of landholders. That does not mean that it is always right to legislate in the democracy that we are working under, on the basis that whatever the larger number of the people demand, must be made into law. We must resist that wrong principle. It is not what is demanded, that should guide us. We have a right to sit together, consider and discuss things and we must do the right thing and not merely what the larger number of people want. This applies to any party. Therefore, I want the younger Members of the Communist party to realise that until we adopt a different system of life and Government, we ought not to act in this manner. Simply because a large number of people have signed certain printed forms or a large number of people have been returned on the tenants' side, must landholders be liquidated? Must there not be landholders at all? But that is not possible. Therefore, hon. Members should reflect on the position. We must consider the Bill not from the point of view of what a large number of people of Malabar would be pleased with, but from the point of view of what is good for the largest number of people. If the landlords are bad and oppressive, whether they are in a majority or minority, I can understand a move to prevent those landlords from oppressing the tenants and to give due rights to the tenants. But what is exactly the case? Lakhs and lakhs of landlords are miserably poor people. It has been proved by statistics that four lakhs of people are small owners of land. What does it matter whether the poor man is called a landlord or a tenant? Is there any justice in saying that the tenants shall have all the rights in the land and that these other poor people, who imagined till now that in reality they are owners, should become practically beggars in the street? We cannot allow that. Therefore it is that we have provided, I say, fairly good terms for both sides and they can live happily together.

"Now, I wish to point out to my young Friends in this House that happiness is not to be got by laws or by regulations. All these years the law has grown. Did anybody make any law defining a Verumpattamdar or an Ulkudi? All these terms have grown by themselves. This tenancy law has grown in the culture of Malabar. It is a voluntary law which has grown, so to say, by custom. Let us not break it by imagining that we can draft a law better than what custom has made into law. The culture of Malabar is inherently connected with these rights, these duties and obligations. If we break all that made the culture, we will break up the culture also. I say to my Friends from Malabar that if they want the culture of Malabar to be retained they must not break all that produced that culture. If we cut at the root, the tree falls to the ground. There is nothing else to result from it. If, therefore, my Friends of Malabar desire that they should

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maintain their culture, they should maintain their laws and customs, the substantial ones that produced that culture and remove only the dead wood—remove only what is unfair and unjust. They must not replace one set of poor people by another set of poor people and create starvation and begging in the streets of Malabar. Therefore, I submit, that the Bill that we have concluded to-day is a good law and hon. Members should go to the country and say 'This is a good law.' They must even now say that they withdraw their statement that this is an oppressive legislation and that it has been forced on the people against their will. It is not true to say that it has been forced by us. We did not want this. It is because the people of Malabar altogether wanted certain things that we have tried to do these things.

"I want my young Friends on the other side to tell the people that much of what was asked for has been conceded. Let them not over-state or under-state things. They may even go to the extent of saying that the Government would not have conceded these things but for them. That may not be true but they can claim it according to the practice of politicians but they should not say 'This is oppressive. This is useless.' They will only make the people unhappy while they have no reason to be unhappy.

"Let us make progress. It is admitted that the people of Malabar are on the whole poor. How shall we become richer? We can become richer, wealthier and happier only if we try and make further progress. But, how is this further progress possible? The 'haves' as well as the 'have-nots' must unite, co-operate and work together. What about the general condition of Malabar when the last public loan was raised? I wish to mention this now at the end of to-day's business. We raised a public loan of Rs. 10 crores. All the twenty-five districts each contributed on the average about twenty to twenty-five lakhs of rupees. Some districts contributed more and they are only one or two, Coimbatore and probably Krishna also. But, on the whole, Chingleput contributed 23 lakhs, North Arcot 13 lakhs, Salem 18 lakhs, Madurai 23 lakhs, Ramanathapuram 21 lakhs, South Kanara 38 lakhs and Malabar also contributed 23 lakhs of rupees. I want the young hon. Members to think about it. Did the tenants contribute this money? Could they have contributed it? It is not possible because where money is so distributed in dribbles they cannot do it. Do we not want any loans at all? How can the country progress unless there are some people who can contribute to capital expenditure? Here are the 'so-called landlords'—a few and not too many—and these few have been able to retain wealth instead of wasting it. They have been able to retain it because they are not too many and they were able along with others to make up this average contribution from Malabar also. Now, if we abolish all these and if we remove all possibility of accumulation, saving and contribution to public expenditure, we will only be worse off than we were before. Let my young Friends reflect over it. Their ideology cannot permit them immediately to accept what I say but they will accept it when they see the progress of events. Suppose, we destroy all our reservoirs.

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The dry land-owners in our country may easily be gulled into saying: 'We do not want wet lands. We do not want mirasdars. We do not want any reservoirs. Let there be rainfall every year. Let no reservoirs be constructed.' What applies to water applies also to wealth. A certain number of people must save and retain and imagine that they are very rich, very happy and important and the Government must take the money from them and spend it on the people. Supposing all the landlords are gone and everyone is a cultivator tenant, what will be the position? No one tenant will be able to save anything. Malabar will not progress and there will be no improvement. This is only my general observation. I do not imagine that the Communist party will accept this doctrine but the Communist party consists of members who are intelligent, consists of members who are Indians, consists of members who are Malayalees and consists of members who know something about the culture of their own country. I, therefore, hope that they will reflect on this and will accept this Bill in a mood of cheerfulness and present it to the people that it is a gain which they have made from the recalcitrant Congress Government and not say it is bad and useless."

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—" Mr. Speaker, Sir, I will not take much of the time of the House and will simply recount whatever things we have done in enacting this Bill. More than two dozen of amenities and advantages have been granted to the tenants by this Bill. I claim, Sir, that we have done much more in this legislation than in any other legislation in respect of tenancy in Malabar. We have given fixity to ulkudis. A mere extension of the advantages of ulkudidars in Fort Cochin to the rest of Malabar would never have given them the advantages we have given by this new legislation. We have also seen to it that in cases where no rent is payable as per the contract between the landlord and the ulkudidar, the ulkudidar need not pay any rent while in Fort Cochin he has to pay rent. We have also added that a suitable site, not any site, has to be given to an ulkudidar in the event of his eviction from a particular site. We have also provided that ulkudidars in dry lands as well as wet lands get the same advantages. Sir, these are very important things and, perhaps, I would claim this as the most important piece of legislation that we have enacted.

" Regarding fixity, we have given fixity of tenure in respect of tenants who are in possession of the land for six years continuously. Fixity, the primary thing, has been prescribed and there is no likelihood of rich people exercising the right of eviction as alleged or as has been alleged to have taken place in recent years. An assignee also could not evict a tenant unless two years elapse after the assignment. These are regular improvements or safeguards in respect of sections 14 and 20 of the principal Act which give fixity of tenure to the tenants.

" With regard to fair rents, we have done much in this Bill. In wet lands the tenant had to pay half the assessment. We have

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eliminated that provision and he is given relief to this extent. Up to this time 25 paras was fixed as cultivation expenses. Now, we have raised it to 30 paras.

“ In respect of garden lands and in respect of coconut gardens the rent that was payable was one-sixth of the produce. We have now reduced it to one-eighth.

“ In respect of the rise in prices, if fair rent is to be ascertained, we have fixed a ceiling that it shall never exceed twice the contract rent. We have also given a provision that the collection of this enhanced rate is to be spread over a number of years. In respect of pepper gardens we have reduced the tenant's liability to pay rent from one-fifth of the produce to one-sixth and also we have prescribed that the first instalment should be paid 12 years after plantation instead of 11 years. In respect of communal lands for which the tenant had to pay rent hitherto, we have exempted him from payment of rent. We have, under this law, enacted that in respect of *punam* cultivation of paddy the tenant is required to pay only twice the assessment. The extent of this relief can be realised from the fact that there are one and a half lakhs of acres under this kind of cultivation.

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“ Sir, we have simplified the machinery for ascertaining fair rent and we have made it available to the tenant and that too without much cost. We have also extended the time for deposit of rent in case the tenant has not deposited it under sections 54 and 55 of the Malabar Tenancy Act.

“ I do not wish to say anything more. We have done all that could be done in the circumstances. It is for the people of Malabar to decide whether this is enacted for their benefit, whether this will give them peace and whether this will tend to promote good feelings and friendly relationship between the landlord and the tenant. I have also to say that all the Members of the Assembly coming from Malabar have co-operated and I have to thank them for the suggestions they have made. I have also to thank you, Sir, for giving us the opportunity to express our views in this House. I have nothing more to add and I am sure this Bill will be welcomed by the people of Malabar.”

* SRI T. C. NARAYANAN NAMBIAR :—“ On a point of order. The Hon. Minister for Law in his anxiety to exaggerate the concessions already given stated in his speech that the cultivation expenses per acre per crop have been raised from 25 to 30 paras, which is not a fact.”

* THE HON. SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, it is a mistake. The cultivation expenses per acre have been raised from 22 to 25 paras.”

MR. SPEAKER :—“ The question is :

‘ That the Malabar Tenancy (Amendment) Bill, 1953, as amended, be passed into law.’ ”

The motion was carried and the Bill, as amended, was passed into law.